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South Dakota

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ENABLING ACT AND CONSTITUTION
AND
THE LAWS
PASSED AT THE
EIGHTH SESSION
OF THE
LEGISLATURE
OF THE
STATE OF SOUTH DAKOTA.

Begun and Held at Pierre, the Capital of Said State, on Tuesday,
the Sixth Day of January, 1903, and Concluded
March 6th, A. D. 1903.

OFFICIAL EDITION.

1903
STATE PUBLISHING CO.
PIERRE, S. D.

THE ENABLING ACT.

AN ACT To provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states.

SECTION 1. That the inhabitants of all that part of the area of the United States now constituting the Territories of Dakota, Montana and Washington, as at present described, may become the States of North Dakota, South Dakota, Montana and Washington, respectively, as hereinafter provided.

SEC. 2. The area comprising the Territory of Dakota shall, for the purposes of this act, be divided on the line of the 7th standard parallel produced due west to the western boundary of said territory; and the delegates elected as hereinafter provided to the constitutional convention in districts north of said parallel shall assemble in convention, at the time prescribed in this act, at the City of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time, assemble in convention at the city of Sioux Falls.

SEC. 3. That all persons who are qualified by the laws of said territories to vote for representatives to the legislative assemblies thereof are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories respectively persons are required to possess to be eligible to the legislative assemblies thereof; and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed states, in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said apportionment shall be made by the governor, the chief justice and the secretary of said territories; and the governors of said territories shall, by proclamation order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, 1889, which proclamation shall be issued on the fifteenth day of April, 1889; and such election shall be conducted, the returns made, the result ascertained, and the certificates to persons elected to such conventions issued in the same manner as is prescribed by the laws of the said territories regulating elections therein for delegates to congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively shall be 75; and all persons resident in said proposed states, who are qualified voters of said territories as herein provided, shall be entitled to vote

upon the election of delegates, and under such rules and regulations as said conventions may prescribe, not in conflict with this act, upon the ratification or rejection of the constitutions.

Sec. 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the City of Sioux Falls, on the fourth day of July, 1889, and after organization shall declare on behalf of the people of said proposed states, that they adopt the constitution of the United States; whereupon the said conventions shall be, and are hereby authorized to form constitutions and state governments for said proposed states respectively. The constitutions shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the Declaration of Independence. And said conventions shall provide by ordinances irrevocable without the consent of the United States and the people of said states:

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or in the ordinances herein provided for, shall preclude the said states from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of congress may prescribe.

Third. That the debts and liabilities of said territories shall be assumed and paid by said states respectively.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of said states, and free from sectarian control.

SEC. 5. That the convention which shall assemble at Bismarck shall shall form a constitution and state government for a state to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a convention and state government for a state to be known as South Dakota; provided, that at the election for delegates to the constitutional convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot the words "For the Sioux Falls Constitution" or the words "Against the Sioux Falls Constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in Section 3 of this act; and if a majority of all votes cast on this question shall be "For the Sioux Falls

Constitution" it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to resubmit to the people of South Dakota, for ratification or rejection, at the election hereinafter provided for in this act, the constitution framed at Sioux Falls and adopted November 3, 1885, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only, as relate to the name and boundary of the proposed state, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the constitution shall be for the constitution irrespective of the articles separately submitted, the state of South Dakota shall be admitted as a state in the union under said constitution as hereinafter provided; but the archives, records and books of the territory of Dakota shall remain at Bismarck, the capital of North Dakota until an agreement in reference thereto is reached by said states. But if at the election for delegates to the constitutional convention in South Dakota a majority of all the votes cast at that election shall be "Against the Sioux Falls Constitution," then and in that event it shall be the duty of the convention which will assemble at the City of Sioux Falls on the fourth day of July, 1889, to proceed to form a constitution and state government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

SEC. 6. It shall be the duty of the constitutional convention of North Dakota and South Dakota to appoint a joint commission to be composed of not less than three members of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also adjust and agree upon the amount of the debts and liabilities of the territory which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota, and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

SEC. 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the territory so rejecting its proposed constitution shall continue under the territorial government of the present Territory of Dakota, but shall, after the state adopting its constitution is admitted into the union, be called by the name of the Territory of North Dakota or South Dakota, as the case may be; provided, that if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and

to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

SEC. 8. That the constitutional convention which may assemble in South Dakota shall provide by ordinance for re-submitting the Sioux Falls constitution of 1885, after having amended the same as provided in Section 5 of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, 1889; but if said constitutional convention is authorized and required to form a new constitution for South Dakota it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection, at an election to be held in said proposed state on the said first Tuesday in October. And the constitutional conventions which may assemble in North Dakota, Montana and Washington shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states, respectively, for ratification or rejection at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the secretary of each of said territories, who, with the governor and chief justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for the constitution the governor shall certify the result to the president of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitution, articles, propositions and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the president of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments as herein provided, shall be deemed admitted by congress into the union under and by virtue of this act, on an equal footing with the original states from and after the date of said proclamation.

SEC. 9. That until the next general census, or until otherwise provided by law said states shall be entitled to one representative in the house of representatives of the United States, except South Dakota, which shall be entitled to two; and the representatives to the Fifty-first congress, together with the governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted to the union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

SEC. 10. That upon the admission of each of said states into the union Sections numbered 16 and 36 in every township of said proposed states, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal sub-divisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the legislature may provide, with the approval of the secretary of the interior; provided, that the 16th and 36th Sections embraced in permanent reservations for national purposes shall not, at any time, be subjected to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of

any character, be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands restored to and become a part of, the public domain.

SEC. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than \$10 per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislatures shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such land shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 12. That upon the admission of each of said states into the union, in accordance with the provisions of this act, 50 sections of the unappropriated public lands within said states, to be selected and located in legal sub-divisions as provided in section 10 of this act, shall be, and are hereby, granted to said states for the purpose of erecting public buildings at the capital of said states for legislative, executive and judicial purposes.

SEC. 13. That 5 per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the union, after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states respectively.

SEC. 14. That the lands granted to the Territories of Dakota and Montana by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the states of South Dakota, North Dakota and Montana, respectively, if such states are admitted into the union as provided in this act, to the extent of the full quantity of 72 sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July 17, 1854, to be reserved for university purposes in the Territory of Washington, as, together with the lands confirmed to the vendees of the territory by the act of March 14, 1864, will make the full quantity of 72 entire sections, are hereby granted in like manner to the State of Washington for the purposes of a university in said state. None of the lands granted in this section shall be sold at less than \$10 per acre; but said lands may be leased in the same manner as provided in Section 11 of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of the said states respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for sectarian or denominational school, college or university. The section of land granted by the act of June 16, 1880, to the territory of Dakota, for an asylum for the insane shall, upon the admission of said state of South Dakota into the union, become the property of said state.

SEC. 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in "An Act appropriating money for the erection of a penitentiary in the Territory of

Dakota," approved March 2, 1881, together with the buildings thereon, be, and the same is, hereby granted, together with any unexpended balances of the money appropriated therefor by said act, to said state of South Dakota, for the purposes therein designated; and the States of North Dakota and Washington shall, respectively, have like grants for the same purpose, and subject to like terms and conditions as provided in said act of March 2, 1881, for the Territory of Dakota. The penitentiary at Deer Lodge City, Mont., and all lands connected therewith and set apart and reserved therefor, are hereby granted to the State of Montana.

SEC. 16. That 90,000 acres of land to be selected and located as provided in Section 10 of this act, are hereby granted to each of said states, except to the State of South Dakota, to which 120,000 acres are granted, for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of lands for such purposes.

SEC. 17. That in lieu of the grant of lands for purposes of internal improvement made to new states by the eighth section of the act of September 4, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 28, 1850, and Section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

To the State of South Dakota: For the school of mines, 40,000 acres; for the reform school, 40,000 acres; for the deaf and dumb asylum, 40,000 acres; for the agricultural college 40,000 acres; for the university, 40,000 acres; for the state normal schools, 80,000 acres; for public buildings at the capital of said state, 50,000 acres; for such other educational and charitable purposes as the legislature of said state may determine, 170,000 acres; in all 500,000 acres.

To the State of North Dakota a like quantity of land as is in this section granted to the State of South Dakota, and to be for like purposes, and in like proportion as far as practicable.

To the State of Montana: For the establishment and maintenance of a school of mines, 100,000 acres; for state normal schools, 100,000 acres; for agricultural colleges, in addition to the grant hereinbefore made for that purpose, 50,000 acres; for the establishment of a state reform school, 50,000 acres; for the establishment of a deaf and dumb asylum, 50,000 acres; for public buildings at the capital of the state, in addition to the grants hereinbefore made for that purpose, 150,000 acres.

To the State of Washington: For the establishment and maintenance of a scientific school, 100,000 acres; for the state normal schools, 100,000 acres; for public buildings at the state capital in addition to the grant hereinbefore made for that purpose, 100,000 acres; for state, charitable, educational, penal and reformatory institutions 200,000 acres.

That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective states may severally provide.

SEC. 18. That all mineral lands shall be exempted from the grants made by this act. But if sections 16 and 36, or any subdivision or portion of any smallest subdivision thereof in any township shall be found by the department of the interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof for the use and the benefit of the common schools of said states.

SEC. 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said states the number of acres in each heretofore donated by congress to said territories for similar objects.

SEC. 20. That the sum of \$20,000, or so much thereof as may be necessary is hereby appropriated, out of any money in the treasury not otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota, for which the sum of \$40,000 is so appropriated, \$20,000 each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

SEC. 21. That each of said states, when admitted as aforesaid, shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the Eighth judicial district, except Washington and Montana, which shall be attached to the Ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States Attorney and one United States Marshal. The judge of each of said districts shall receive a yearly salary of \$3,500, payable in four equal installments, on the first days of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said court shall be held in each district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district court. The circuit and district courts for each of said districts and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts, and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the State of Nebraska.

SEC. 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of either of the territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts, may be heard and determined by said supreme court of the United States. And the mandate of execution or of further proceedings shall be directed by the supreme court of the United States to the circuit or district court hereby established within the state succeeding the territory from which such record is or may be pending, or to the supreme court of such state, as the nature of the case may require; provided that the mandate of execution or of further proceedings shall,

in cases arising in the territory of Dakota, be directed by the supreme court of the United States to the circuit or district court of the district of South Dakota, or to the supreme court of the State of South Dakota, or to the circuit or district court of the district of North Dakota, or to the supreme court of the State of North Dakota, or to the supreme court of the Territory of North Dakota, as the nature of the case may require. And each of the circuit, district and state courts herein named shall, respectively be the successor of the supreme court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the supreme court of the United States as they shall have had by law prior to the admission of said state into the union.

SEC. 23. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of either of the territories mentioned in this act at the time of the admission into the union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively shall be the successors of said supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the supreme or district courts of any of the territories mentioned in this act at the time of the admission of such territory into the union, arising within the limits of said proposed state, the courts established by such state shall, respectively, be the successors of said supreme and district territorial courts; and all the files, records, indictments and proceedings relating to any such cases, shall be transferred to such circuit, district and state courts respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the states mentioned in this act shall be pending in any territorial court in any of the territories mentioned in this act, shall abate by the admission of any such state in to the union but the same shall be transferred and proceeded with in the proper United States circuit, district or state court as the case may be; provided, however, that in all civil actions, causes and proceedings in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request, such cases shall be proceeded with in the proper state courts.

SEC. 24. That the constitutional conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives in the fifty-first congress; and said state government shall remain in abeyance until the states shall be admitted into the union, respectively, as provided in this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two senators of the United States, and the governor and secretary of state of such proposed state shall certify the election of the senators and representatives in the manner required by law, and when such state is admitted into the union the senators and representatives shall be entitled to be admitted to seats in congress, and to all the rights and privi-

leges of senators and representatives of other states in the congress of the United States; and the officers of the state governments formed in pursuance of said constitutions, as provided by the constitutional conventions, shall proceed to exercise all the functions of such state officers; and all laws in force made by said territories at the time of their admission into the union shall be in force in said states, except as modified or changed by this act or by the constitutions of the states, respectively.

SEC. 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislatures of said territories or by congress, are hereby repealed.

CONSTITUTION OF SOUTH DAKOTA.

[Adopted by popular vote October 1, 1889. Yeas, 70,131; Nays, 3,267.]

PREAMBLE.

We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties, in order to form a more perfect and independent government, establish justice, insure tranquility, provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the blessings of liberty, do ordain and establish this Constitution for the State of South Dakota.

ARTICLE 1.

NAME AND BOUNDARY.

§ 1. The name of the State shall be South Dakota.

§ 2. The boundaries of the State of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota, with the northern boundary line of the State of Iowa and running thence northerly along the western boundary line of the State of Minnesota to its intersection with the 7th standard parallel; thence west on the line of the 7th standard parallel produced due west to its intersection with the 27th meridian of longitude west from Washington; thence south on the 27th meridian of longitude west from Washington to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

ARTICLE 2.

DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government of the state are divided into three distinct departments—the Legislative, Executive and Judicial; and the powers and duties of each are prescribed by this Constitution.

ARTICLE 3.

LEGISLATIVE DEPARTMENT.

§ 1. The legislative power shall be vested in a Legislature which shall consist of a Senate and House of Representatives. Except that the people expressly reserve to themselves the right to propose measures, which measures the Legislature shall enact and submit to a vote of the electors of the State, and also the right to require that any laws which the Legislature may have enacted shall be submitted to a vote of the electors of the State before going into effect, (except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the State Government and its existing public institutions.)

Provided, that not more than five per centum of the qualified electors of the State shall be required to invoke either the initiative or the referendum.

This section shall not be construed so as to deprive the Legislature or any member thereof of the right to propose any measure. The veto power of the Executive shall not be exercised as to measures referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws approved by vote of the electors of the State shall be: "Be it enacted by the people of South Dakota." The Legislature shall make suitable provisions for carrying into effect the provisions of this section.

(The foregoing section (§ 1) was submitted in its present form by the Legislature in 1897 as an amendment to the Constitution; (Chap. 39, Laws of 1897.) It was adopted by the people at the general election held November 8, 1898.)

State ex rel. Lavin et al. vs. Bacon et al., 14 S. D. 284-394.

§ 2. The number of members of the House of Representatives shall not be less than seventy-five, nor more than one hundred and thirty-five. The number of members of the Senate shall not be less than twenty-five nor more than forty-five.

The sessions of the Legislature shall be biennial except as otherwise provided in this Constitution.

§ 3. No person shall be eligible to the office of Senator who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the State or Territory for two years next preceding his election.

No person shall be eligible to the office of Representative who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have been a resident of the State or Territory for two years next preceding his election, and who shall not have attained the age of twenty-five years.

No Judge or Clerk of any Court, Secretary of State, Attorney General, State's Attorney, Recorder, Sheriff or Collector of Public Moneys, Member of either House of Congress, or person holding any lucrative office under the United States, or this State, or any foreign government, shall be a Member of the Legislature; *Provided*, that appointments in the Militia, the offices of Notary Public and Justice of the Peace shall not be considered lucrative; nor shall any person holding any office of honor or profit under any foreign government or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, hold any office in either branch of the Legislature or become a member thereof.

§ 4. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, nor any person who has been, or may be collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the legislature or to any office in either branch thereof.

§ 5. The legislature shall provide by law for the enumeration of the inhabitants of the State in the year One Thousand Eight Hundred and Ninety-five and even ten years thereafter; and at its first regular session, after each enumeration and also after each enumeration made by authority of the United States, but at no other time, the legislature shall apportion the Senators and Representatives according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy. *Provided*, that the Legislature may make an apportionment at its first session after the admission of South Dakota as a State.

In re State Census, 6 S. D. 540.

§ 6. The terms of the office of the Members of the Legislature, shall be two years; they shall receive for their services the sum of five dollars for each day's attendance during the session of the legislature, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

Each regular session of the Legislature shall not exceed sixty days, except in cases of impeachment, and Members of the Legislature shall receive no other pay or perquisites except per diem and mileage.

(The foregoing section (§ 6) was amended at the general election held in November, 1892, by reducing the mileage of the members from "ten" to "five" cents per mlie.)

§ 7. The legislature shall meet at the Seat of Government on the first Tuesday after the first Monday of January at 12 o'clock m., in the year next ensuing the election of members thereof, and at no other time except as provided by this Constitution.

§ 8. Members of the Legislature and officers thereof, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution, of the State of South Dakota, and will faithfully discharge the duties of (Senator, Representative or Officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office and have not accepted, nor will I accept or receive directly or indirectly, any money, pass, or any other valuable thing, from any corporation, company or person, for any vote or influence I may give or withhold on any bill or resolution, or appropriation, or for any other official act.

This oath shall be administered by a Judge of the Supreme or Circuit Court, or the Presiding Officer of either House, in the Hall of the House to which the member or officer is elected, and the Secretary of State shall record and file the oath subscribed by each member and officer.

Any member or officer of the Legislature who shall refuse to take the oath herein prescribed shall forfeit his office.

Any member or officer of the legislature who shall be convicted of having sworn falsely to, or violated his said oath, shall forfeit his office and be disqualified thereafter from holding the office of Senator or member of the House of Representatives or any office within the gift of the Legislature.

§ 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each House shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such penalty as each House may provide.

Each House shall determine the rules of its proceedings, shall choose its own officers and employes and fix the pay thereof, except as otherwise provided in this Constitution.

§ 10. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature.

§ 11. Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same; and for words used in any speech or debate in either House, they shall not be questioned in any other place.

§ 12. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created, or the emoluments of which shall have been increased during the term for which he was elected, nor shall any member receive any civil appointment from the Governor, the Governor and Senate, or from the Legislature during the term for which he shall have been elected, and all such appointments and all votes given for any such members for any such office or appointment shall be void; nor shall any member of the Legislature during the term for which he shall have been elected, or within one year thereafter, be interested, directly or indirectly, in any contract with the State or any County thereof, authorized by any law passed during the term for which he shall have been elected.

Palmer vs. State. 11 S. D. 78.

§ 13. Each House shall keep a Journal of its proceedings and publish the same from time to time, except such parts as require secrecy, and the yeas and

nays of members on any question shall be taken at the desire of one-sixth of those present and entered upon the Journal.

Narregang vs. Brown county et al., 14 S. D. 357.

§ 14. In all elections to be made by the Legislature the members thereof shall vote *viva voce* and their votes shall be entered in the Journal.

§ 15. The sessions of each House and of the Committee of the Whole shall be open, unless when the business is such as ought to be kept secret.

§ 16. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

§ 17. Every bill shall be read three several times, but the first and second reading may be on the same day, and the second reading may be by title of the bill, unless the reading at length be demanded. The first and third readings shall be at length.

§ 18. The enacting clause of a law shall be: "Be it enacted by the Legislature of the State of South Dakota" and no law shall be passed unless by assent of a majority of all the members elected to each House of the Legislature. And the question upon the final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the Journal.

§ 19. The Presiding Officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing, and the fact of signing, shall be entered upon the Journal.

§ 20. Any bill may originate in either House of the Legislature, and a bill passed by one House may be amended in the other.

§ 21. No law shall embrace more than one subject, which shall be expressed in its title.

State vs. Morgan, 2 S. D. 32; State vs. Becker, 3 S. D. 20; State vs. Ayres, 8 S. D. 517; Stuart et al vs. Kirley et al., 12 S. D. 246.

§ 22. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency, (to be expressed in the preamble or body of the act) the Legislature shall by a vote of two-thirds of all the members elected of each House, otherwise direct.

State ex rel. Lavin et al. vs. Bacon et al. 14 S. D. 284-304; Bank vs. Reeves, 13 S. D. 193.

§ 23. The Legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorces.
 2. Changing the names of persons or places, or constituting one person the heir at law of another.
 3. Locating or changing county seats.
 4. Regulating county and township affairs.
 5. Incorporating cities, towns and villages or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public ground.
 6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
 7. Authorizing persons to keep ferries across streams wholly within the State.
 8. Remitting fines, penalties or forfeitures.
 9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.
 10. Providing for the management of common schools.
 11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.
- But the legislature may repeal any existing special law relating to the foregoing subdivisions.

In all other cases where a general law can be applicable no special law shall be enacted.

Stuart et al. vs. Kirley, et al., 12 S. D. 245.

Bon Homme county vs. Berndt et al., 13 S. D. 309.

§ 24. The Legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State, or to any municipal corporation therein.

§ 25. The Legislature shall not authorize any game of chance, lottery or gift enterprise, under any pretense, or for any purpose whatever.

§ 26. The legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property, effects, whether held in trust or otherwise, or levy taxes, or to select a Capital site, or to perform any municipal functions whatever.

§ 27. The Legislature shall direct by law in what manner and in what courts suits may be brought against the State.

§ 28. Any person who shall give, demand, offer, directly or indirectly, any money, testimonial, privilege or personal advantage, thing of value to any executive or judicial officer or member of the Legislature, to influence him in the performance of any of his official or public duties, shall be guilty of bribery and shall be punished in such manner as shall be provided by law.

The offense of corrupt solicitation of members of the Legislature, or of public officers of the State, or any municipal division thereof, and any effort toward solicitation of said members of the Legislature or officers to influence their official action shall be defined by law, and shall be punishable by fine and imprisonment.

Any person may be compelled to testify in investigation or judicial proceedings against any person charged with having committed any offense of bribery or corrupt solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, but said testimony shall not afterward be used against him in any judicial proceeding except for bribery in giving such testimony, and any person convicted of either of the offenses aforesaid, shall be disqualified from holding any office or position or office of trust or profit in this State.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

§ 1. The executive power shall be vested in a Governor who shall hold his office two years. A Lieutenant Governor shall be elected at the same time and for the same term.

§ 2. No person shall be eligible to the office of Governor or Lieutenant Governor except a citizen of the United States and a qualified elector of the State, who shall have attained the age of 30 years, and who shall have resided two years next preceding the election within the State or Territory; nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 3. The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the time and places of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant Governor shall be elected; but if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two Houses of the Legislature at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor shall be made in such manner as shall be prescribed by law.

§ 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute laws, suppress insurrection and repel invasion. He shall have power to convene the Legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the Legislature by message, information of the condition of the

State, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the Government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws be faithfully executed.

§ 5. The Governor shall have the power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; *Provided*, that in all cases where the sentence of the court is capital punishment, imprisonment for life, or for a longer term than two years, or a fine exceeding two hundred dollars, no pardon shall be granted, sentence commuted or fine remitted, except upon the recommendation in writing of a Board of Pardons, consisting of the Presiding Judge, Secretary of State and Attorney General, after full hearing in open session, and such recommendation, with the reasons therefor shall be filed in the office of the Secretary of State; but the Legislature may by law in all cases regulate the manner in which the remission of fines, pardons, commutations and reprieves, may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the Legislature at each regular session each case of remission of fine, reprieve, commutation or pardon, granted by him in the cases in which he is authorized to act without the recommendation of the said Board of Pardons stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 6. In case of death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or other disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant Governor.

§ 7. The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. If during a vacancy in the office of Governor the Lieutenant Governor shall be impeached, displaced, resign or die, or from mental or physical disease or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

§ 8. When any office shall from any cause become vacant and no mode is provided by the Constitution or law for filling such vacancy, the Governor shall have the power to fill such vacancy by appointment.

State ex rel Holmes vs. Finnerud, 7 S. D. 237; State ex rel Lavin et al vs. Bacon et al. 14 S. D. 284-304.

§ 9. Every bill which shall have passed the Legislature, shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it, but if not, he shall return it with his objection to the House in which it originated, which shall enter the objection at large upon the Journal and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objection, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both Houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the Journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall by its adjournment prevent its return; in which case it shall be filed, with his objection, in the office of the Secretary of State, within ten days after such adjournment, or become a law.

§ 10. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items,

and the part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the following manner: If the Legislature be in session he shall transmit to the House in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the Executive veto.

§ 11. Any Governor of this State who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the Legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration than any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either House of said Legislature or who threatens any member that he, the said Governor, will remove any person or persons from any office or position with intent to in any manner influence the official action of said member, shall be punished in the manner now, or that may hereafter be provided by law, and upon conviction thereon shall forfeit all right to hold or exercise any office of trust or honor in this State.

§ 12. There shall be chosen by the qualified electors of the State at the time and places of choosing members of the legislature, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands, and an Attorney General, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of Treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

§ 13. The powers and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of School and Public Lands and Attorney General shall be as prescribed by law.

State vs. Becker, 3 S. D. 29.
State vs. Roddie, 12 S. D. 433.

ARTICLE V.

JUDICIAL DEPARTMENT.

§ 1. The Judicial powers of the State, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, Circuit Courts, County Courts, and Justices of the Peace, and such other Courts as may be created by law for cities and incorporated towns.

§ 2. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, and shall have a general superintending control over all inferior Courts under such regulations and limitations as may be prescribed by law.

City of Huron vs. Campbell, 3 S. D. 309; Vine et al vs. Jones et al., 13 S. D. 54.

§ 3. The Supreme Court and the Judges thereof shall have power to issue writs of *habeas corpus*. The Supreme Court shall also have power to issue writs of *mandamus*, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be prescribed by law; *Provided, however*, that no jury trials shall be allowed in said Supreme Court, but in proper cases, questions of fact may be sent by said Court to a Circuit Court for trial before a jury.

Everitt vs. Board County Com. Hughes County et al., 1 S. D. 365; State ex rel. Dillard, Attorney General vs. Bd. Co. Comm. Hughes Co. et al., 1 S. D. 292; In re Ringrose 9 S. D. 349.

State ex rel McGee vs. Gardner, 3 S. D. 553.

§ 4. At least two terms of the Supreme Court shall be held each year at the seat of government .

§ 5. The Supreme Court shall consist of three Judges, to be chosen from districts by qualified electors of the State at large, as hereinafter provided.

§ 6. The number of said Judges and districts may after five years from the admission of this State under this Constitution, be increased by law to not exceeding five.

§ 7. A majority of the Judges of the Supreme Court shall be necessary to form a quorum or to pronounce a decision, but one or more of said Judges may adjourn the court from day to day, or to a day certain.

§ 8. The term of the Judges of the Supreme Court, who shall be elected at the first election under this Constitution, shall be four years. At all subsequent elections the term of said Judges shall be six years.

§ 9. The Judges of the Supreme Court shall by rule select from their number a Presiding Judge, who shall act as such for the term prescribed by such rule.

§ 10. No person shall be eligible to the office of Judge of the Supreme Court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this State or Territory at least two years next preceding his election and at the time of his election be a resident of the district from which he is elected; but for the purpose of re-election, no such Judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

Jamieson vs. Wiggin, 12 S. D. 16.

§ 11. Until otherwise provided by law, the districts from which the said Judges of the Supreme Court shall be elected shall be constituted as follows:

First District—All that portion of the State lying west of the Missouri river.

Second District—All that portion of the State lying east of the Missouri river and south of the Second Standard Parallel.

Third District—All that portion of the State lying east of the Missouri river and north of the Second Standard Parallel.

§ 12. There shall be a Clerk and also a Reporter of the Supreme Court, who shall be appointed by the Judges thereof and who shall hold office during the pleasure of said Judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the Supreme Court not inconsistent with law. The Legislature shall make provision for the publication and distribution of the decisions of the Supreme Court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copyrights are secured they shall inure wholly to the benefit of the State.

§ 13. The Governor shall have authority to require the opinions of the Judges of the Supreme Court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.

In re. Construction of Constitution. 3 S. D. 548.

§ 14. The Circuit Courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this Constitution; such jurisdiction as to value and amount and grade of offense may be limited by law. They and the Judges thereof shall also have jurisdiction and power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same.

§ 15. The State shall be divided into Judicial Circuits, in each of which there shall be elected by the electors thereof one Judge of the Circuit Court therein, whose term of office shall be four years.

§ 16. Until otherwise ordered by law, said Circuits shall be eight in number and constituted as follows, viz:

CIRCUITS.

NOTE—The present status of the several circuits of the state is fixed by Article 5, Chapter 11 Political Code.

§ 17. The Legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of Judicial Circuits and the Judges thereof, and divide the State into Judicial Circuits accordingly, taking care that they be formed of compact territory and be bounded by County lines; but such increase of number or change in the boundaries of districts shall not work the removal of any Judge from his office during the term for which he shall have been elected or appointed.

§ 18. Writs of error and appeals may be allowed from the decisions of the Circuit Courts to the Supreme Court under such regulations as may be prescribed by law.

COUNTY COURTS.

§ 19. There shall be elected in each organized County a County Judge who shall be Judge of the County Court of said County, whose term of office shall be two years until otherwise provided by law.

§ 20. County Courts shall be Courts of record and shall have original jurisdiction in all matters of probate, guardianship, and settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; *Provided*, that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars, except in matters of probate, guardianship and the estates of deceased persons. Writs of error and appeal may be allowed from County to Circuit Courts, or to the Supreme Court in such cases and in such manner as may be prescribed by law; *Provided*, that no appeal or writ of error shall be allowed to the Circuit Court from any judgment rendered upon an appeal from a Justice of the Peace or Police Magistrate for cities or towns.

§ 21. The County Court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade or felony, as the Legislature may prescribe, and the prosecutions therein may be by information or otherwise as the legislature may provide.

JUSTICE OF THE PEACE.

§ 22. Justices of the Peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title to real property shall be called in question.

POLICE MAGISTRATE.

§ 23. The Legislature shall have power to provide for creating such Police Magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively and such police magistrates may also be constituted *ex-officio* Justices of the Peace for their respective Counties.

State vs. Wright, 15, S. D. 628

STATE'S ATTORNEY.

§ 24. The Legislature shall have power to provide for State's Attorneys and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of Attorney General or State's Attorney who shall not at the time of his election be at least twenty-five years of age and possess all the other qualifications for Judges of Circuit Courts as prescribed in this Article.

MISCELLANEOUS.

§ 25. No person shall be eligible to the office of Judge of the Circuit or County Courts, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in

this State or Territory at least one year next preceding his election, and at the time of his election be a resident of the County or Circuit, as the case may be, for which he is elected.

Jamieson vs. Wiggin, 12 S. D. 16.

§ 26. The Judges of the Supreme Court, Circuit Courts and County Courts shall be chosen at the first election held under the provisions of this Constitution, and thereafter as provided by law, and the Legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may for the purpose of making such provision, extend or abridge the term of office for any of such Judges then holding, but not in any case more than six months. The term of office of all Judges of Circuit Courts, elected in the several Judicial Circuits throughout the State, shall expire on the same day.

§ 27. The time of holding Courts within said Judicial Circuits and Counties shall be as provided by law; but at least one term of the Circuit Court shall be held annually in each organized County, and the Legislature shall make provision for attaching unorganized counties or territory to organized counties for Judicial purposes.

§ 28. Special terms of said Courts may be held under such regulations as may be provided by law.

§ 29. The Judges of the Circuit Courts may hold Courts in other Circuits than their own, under such regulations as may be prescribed by law.

Holden vs. Haserodt et al 3 S. D. 4.

§ 30. The Judges of the Supreme Court, Circuit Courts and County Courts shall each receive such salary as may be provided by law, consistent with this Constitution, and no such Judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; *Provided*, that County Judges may accept and receive such fees as may be allowed under the Land Laws of the United States.

§ 31. No Judge of the Supreme Court or Circuit Court shall act as attorney or counselor at law, nor shall any County Judge act as an attorney or counselor at law in any case which is or may be brought into his Court or which may be appealed therefrom.

§ 32. There shall be a clerk of the Circuit Court in each organized County, who shall also be Clerk of the County Court, and who shall be elected by the qualified electors of such County. The duties and compensation of said Clerk shall be as provided by law and regulated by the rules of the Court consistent with the provisions of law.

§ 33. Until the Legislature shall provide by law for fixing the terms of Courts, the Judges of the Supreme, Circuit and County Courts respectively shall fix the terms thereof.

§ 34. All laws relating to Courts shall be general and of uniform operation throughout the State, and the organization, jurisdiction, power, proceedings and practice of all the Courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such Courts severally shall be uniform; *Provided, however*, that the Legislature may classify the County Courts according to the population of the respective Counties and fix the jurisdiction and salary of the Judges thereof, accordingly.

McClain vs. Williams, 11 S. D. 60.

§ 35. No Judge of the Supreme or Circuit Courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such Judge. All votes for either of them during such term for any elective office, except that of Judge of the Supreme Court, Circuit Court or County Court, given by the Legislature or the people, shall be void.

§ 36. All Judges or other officers of the Supreme, Circuit or County Courts provided for in this Article shall hold their offices until their successors respectively are elected or appointed and qualified.

§ 37. All officers provided for in this Article shall respectively reside in the District, County, Precinct, City or Town for which they may be elected or appointed. Vacancies in the elective offices provided for in this Article shall be filled by appointment until the next general election as follows: All Judges of the Supreme, Circuit and County Courts by the Governor. All other Judicial and other officers by the County Board of the Counties where the vacancy occurs; in cases of Police Magistrates, by the municipality.

In re Supreme Court Vacancy, 4 S. D. 532; State ex rel McGee vs. Gardner, 3 S. D. 553

§ 38. All process shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

State vs. Thompson, 4 S. D. 95.

ARTICLE VI.

BILL OF RIGHTS.

§ 1. All men are born equal free and independent and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

State vs. Scougal, 3 S. D. 55.

§ 2. No person shall be deprived of life, liberty or property without due process of law.

State vs. Scougal, 3 S. D. 55.

3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the State.

No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the State shall be given or appropriated for the benefit of any sectarian or religious society or institution.

Synod of Dakota vs. State, 2 S. D. 366

§ 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

§ 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be sufficient defense. The jury shall have the right to determine the fact and the law under the direction of the Court.

Ross vs. Ward, 14 S. D. 240.

§ 6. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy, but the Legislature may provide for a jury of less than twelve in any Court not a Court of record and for the decision of civil cases by three-fourths of the jury in any Court.

Belatti vs. Pierce, 8 S. D. 456.

§ 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the County or District in which the offense is alleged to have been committed.

State vs. Burchard, 4 S. D. 549.

State vs. Mitchell, 3 S. D. 228.

§ 8. All persons shall be bailable by sufficient sureties, except for capital offenses when proof is evident or presumption great. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.

§ 9. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense.

State vs. Reddington, 8 S. D. 315.

§ 10. No person shall be held for a criminal offense unless on the presentment or indictment of the grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by County Courts, by Justices of the Peace, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger. *Provided*, that the grand jury may be modified or abolished by law.

§ 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or thing to be seized.

§ 12. No *ex post facto* law, or law impairing the obligation of contracts or making any irrevocable grant or privilege, franchise or immunity, shall be passed.

§ 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained, and before possession is taken. No benefit which may accrue to the owner as the result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners, subject to the use for which it is taken.

Searle vs. City of Lead, 10 S. D. 312.

Whittaker vs. City of Deadwood et al., 12 S. D. 608.

§ 14. No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

§ 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

City of Deadwood vs. Allen, 9 S. D. 221.

§ 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

§ 17. No tax or duty shall be imposed without the consent of the people or their representatives in the Legislature, and all taxation shall be equal and uniform.

§ 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

§ 19. Elections shall be free and equal, and no power, civil or military shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the State under regulations to be prescribed by the Legislature.

§ 20. All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice, administered without denial or delay.

§ 21. No power of suspending laws shall be exercised, unless by the Legislature or its authority.

§ 22. No person shall be attainted of treason or felony by the Legislature.

§ 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishments inflicted.

State vs. Becker, 3 S. D. 29.

§ 24. The right of citizens to bear arms in defense of themselves and the State shall not be denied.

§ 25. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

§ 26. All political power is inherent in the people, and all free government is founded on their authority, and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. And the State of South Dakota is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

§ 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

ARTICLE VII.

ELECTIONS AND RIGHT OF SUFFRAGE.

§ 1. Every male person resident of this State who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this Constitution by the people, or who shall have resided in the United States one year, in this State six months, in the County thirty days, and in the election precinct where he offers his vote ten days next preceding any election, shall be deemed a qualified elector at such election;

First, citizens of the United States.

Second, persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

Chamberlain vs. Wood et al., 15 S. D. —, 88 N. W. 109.

§ 2. The Legislature shall at its first session after the admission of the State into the Union submit to a vote of the electors of the State the following question to be voted upon at the next general election held thereafter, namely: "Shall the word male" be stricken from the article of the Constitution relating to elections and the right of suffrage?" If a majority of the votes cast upon that question are in favor of striking out said word "male," it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this state.

NOTE—The above question was submitted to the people at the election held in November, 1890, and was rejected by the following vote: For, 22,072; against, 45,682.

§ 3. All votes shall be by ballot, but the Legislature may provide for numbering ballots for the purpose of preventing and detecting fraud.

§ 4. All general elections shall be biennial.

§ 5. Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of elections, except in the time of war or public danger.

§ 6. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the Military or Naval service of the United States.

§ 7. No soldier, Seaman or marine in the Army or Navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

§ 8. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

§ 9. Any woman having the qualifications enumerated in Section 1 of

this article, as to age residence and citizenship, and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes and may hold any office in this state, except as otherwise provided in this Constitution.

ARTICLE VIII.

EDUCATION AND SCHOOL LANDS.

§ 1. The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the Legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education.

§ 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be given by the United States for the use of public schools in the state; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the state by escheat; the proceeds of all gifts or donations to the state for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools, shall be and remain a perpetual fund for the maintenance of public schools in the state. It shall be deemed a trust fund held by the state. The principal shall forever remain inviolate, and may be increased, but shall never be diminished, and the state shall make good all losses thereof which may in any manner occur.

§ 3. The interest and income of this fund, together with the net proceeds of all fines for violation of State laws, and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the state, and shall be for this purpose apportioned among and between all the several public school corporations of the state in proportion to the number of children in each, of school age, as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the state.

§ 4. After one year from the assembling of the first legislature, the lands granted to the state by the United States for the use of public schools may be sold upon the following conditions and no other: Not more than one-third of all such lands shall be sold within the first five years, and no more than two-thirds within the first fifteen years after the title thereto is vested in the state, and the Legislature shall, subject to the provisions of this article, provide for the sale of the same.

The Commissioner of School and Public Lands, the State Auditor and the County Superintendent of Schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands within the several counties which they may from time to time select and designate for sale, at their actual value under the terms of sale.

They shall take care to first select and designate for sale the most valuable lands; and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural, and cause the proper subdivision of the same in order that the largest price may be obtained therefor.

§ 5. No land shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years and one-fourth in fifteen years, with interest thereon at the rate of not less than six per centum per annum, payable annually in advance; but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance, the balance of

the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not more than eighty acres and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal, shall be re-appraised by the board of appraisal as hereinbefore provided before they are sold.

§ 6. All sales shall be conducted through the office of the Commissioner of School and Public Lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right or title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the governor in such form as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

§ 7. All lands, money or other property donated, granted or received from the United States or any other source for a university, agricultural college, normal schools or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses therefrom that shall in any manner occur.

§ 8. All lands mentioned in the proceeding section shall be appraised and sold in the same manner and by the same officers and boards under the same limitations and subject to all the conditions as to price, sale and approval, provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds.

§ 9. No lands mentioned in this article shall be leased except for pasturage and meadow purposes and at public auction after notice as hereinbefore provided in case of sale, and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the governor.

§ 10. No claim to any public lands by any trespasser thereon by reason of occupancy, cultivation or improvement thereof, shall ever be recognized; nor shall compensation ever be made on account of any improvements made by such trespasser.

§ 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this state as hereinafter provided, or in bonds of school corporations within the state, or in bonds of the United States, or of the State of South Dakota. The Legislature shall provide by law the method of determining the amounts of said funds which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, shall for such purpose be divided among the organized counties of the state in proportion to population as nearly as provisions by law to secure continuous investments may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss to any money so apportioned to any county, such county shall make the same good out of its

common revenue. Counties shall invest said money in bonds of school corporations, or in first mortgages upon good improved farm lands within their limits respectively; but no farm loan shall exceed five hundred dollars to any one person, nor shall it exceed one-half the valuation of the land as assessed for taxation and the rate of interest shall not be less than six per centum per annum, and shall be such other and higher rate as the Legislature may provide, and shall be payable semi-annually on the first day of January and July; *Provided*, that wherever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the state treasurer to be intrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the Auditor of State, and at the same time pay to or account to the State Treasurer for the interest due on all funds intrusted to it.

The Legislature may provide by general law that counties may retain from interest collected in excess of six per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the state treasury of interest at the rate provided by law for such loans, except only said one per centum; and in no case shall the interest so to be paid be less than six per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds, and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

The following amendment in Section 11 of Article 8 was submitted at the general election held Nov. 4, 1902, and was adopted by a vote of 46,472 for to 9,601 against:

The rate of interest upon all investments of the permanent school or other educational funds mentioned in Section 11 of Article VIII, of the Constitution of this state is hereby changed and reduced from six per centum per annum to five per centum per annum, wherever the said words "six per centum per annum" occur in said section. That if the foregoing amendment shall be approved and ratified by the people at said election, as provided by Article XXIII of the Constitution, said Section 11 of Article VIII of the Constitution shall be thereby amended by striking out the said words six per centum per annum wherever they occur in said section 11 and substituting in lieu thereof the words five per centum per annum."

§ 12. The Governor may disapprove any sale, lease or investment other than such as are intrusted to the counties.

§ 13. All losses to the permanent school or other educational funds of this state which shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the fund sustaining the loss upon which not less than six per centum of annual interest shall be paid. The amount of indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII., Section 2.

§ 14. The legislature shall provide by law for the protection of the school lands from trespass or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

§ 15. The legislature shall make such provision by general taxation, and by authorizing the school corporations to levy such additional taxes as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the state.

§ 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state, or any county or municipality within the State, nor shall the State or any county or municipality

within the state accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the state.

§ 17. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state, under such penalties as shall be provided by law.

ARTICLE IX.

COUNTY AND TOWNSHIP ORGANIZATION.

§ 1. The legislature shall provide by general law for organizing new counties, locating the county seats thereof and changing county lines; but no new counties shall be organized so as to include an area of less than twenty-four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified. All changes in county boundaries in counties already organized, before taking effect, shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter and be adopted by a majority of the votes cast in each county at such election. Counties now organized shall remain as they are unless changed according to the above provisions.

Stuart et al. vs Kirley et al., 12 S. D. 245.

§ 2. In counties already organized where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at a general election. The place receiving a majority of all votes cast at said election shall be the county seat of said county.

State ex rel. Adkin vs. Lien et al., 9 S. D. 297.

Adkin vs. Lien et al., 10 S. D. 436.

State ex rel. Cosper vs. Porter et al., 13 S. D. 126.

§ 3. Whenever a majority of the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election, then the county seat shall be changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

The above section was amended by popular vote of 36,436 for, to 14,612 against at the general election held November 4, 1902, to read as follows:

§ 3. Whenever a majority of the legal voters of any organized county shall petition the board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said board shall submit the same to the people of the said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election (except as hereinafter provided) then the county seat shall be changed, otherwise not; *Provided*, however, that in cases where the county seat is not located at a railroad station and it is proposed to remove the same to a railroad station, then the proposition to change the county seat may be ratified by three-fifths of the votes cast at said election, upon the question of such removal and in such case if the proposition to change the county seat be ratified by three-fifths of the votes cast at said election upon the question of such removal then the county seat shall be changed, otherwise not.

"A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years."

§ 4. The Legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and nat-

ural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with the congressional townships.

§ 5. In each organized county at the first general election held after the admission of the State of South Dakota into the Union, and every two years thereafter, there shall be elected a Clerk of the Court, Sheriff, County Auditor, Register of Deeds, Treasurer, State's Attorney, Surveyor, Coroner, and Superintendent of Schools, whose terms of office respectively shall be two years, and except the Clerk of the Court, no person shall be eligible for more than four years in succession to any of the above named offices.

§ 6. The Legislature shall provide by general law for such county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

§ 7. All county, township and district officers shall be electors in the county, township or district in which they are elected, provided that nothing in this section shall prevent the holding of school offices by any person as provided in Section 9, Article VII.

ARTICLE X.

MUNICIPAL CORPORATIONS.

§ 1. The legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that no such corporations shall have any powers, or be subject to any restrictions other than those of all corporations of the same class. The legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

Henderson vs. Hughes County et al., 13 S. D. 576.

§ 2. Except as otherwise provided in this constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment, for one purpose ever be diverted to any other.

Aldrich et al. vs. Collins et al., 3 S. D. 154; *Howard vs. City of Huron et al.*, 6 S. D. 180; *Shannon et al. vs. City of Huron*, 9 S. D. 356.

§ 3. No street passenger railway or telegraph or telephone line shall be constructed within the limits of any village, town or city without the consent of its local authorities.

ARTICLE XI.

REVENUE AND FINANCE.

§ 1. The Legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the state for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes.

And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the Legislature shall provide for levying a tax for the ensuing year, sufficient with other sources of income to pay the deficiency of the preceding year together with the estimated expenses of such ensuing year. And for the purpose of paying the public debt, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state as ascertained by the last assessment made for the state and county purposes.

In re Limitation of taxation, 3 S. D. 456.

§ 2. All taxes to be raised in this state shall be uniform on all real and personal property, according to its value in money, to be ascertained by such rules of appraisement and assessment as may be prescribed by the legislature by general law, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property. And the legislature shall provide by general law for the assessing and levying of taxes on all corporation property, as near as may be by the same methods as are provided for assessing and levying of taxes on individual property.

State ex rel. Grogby vs. Buechler, 10 S. D. 156.

§ 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

§ 4. The Legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

§ 5. The property of the United States and of the state, county and municipal corporations, both real and personal shall be exempt from taxation.

§ 6. The legislature shall, by general law, exempt from taxation, property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

§ 7. All laws exempting property from taxation, other than that enumerated in Sections 5 and 6 of this Article, shall be void.

§ 8. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.

In re limitation of taxation, 3 S. D. 456.

§ 9. All taxes levied and collected for state purposes shall be paid into the state treasury. No indebtedness shall be incurred or money expended by the State, and no warrant shall be drawn upon the State Treasurer except in pursuance of an appropriation for the specific purpose first made. The Legislature shall provide by suitable enactment for carrying this section into effect.

Carter vs. Thorson, Secretary of State, 5 S. D. 474; Van Dusen et al vs. State, 11 S. D. 318; Stanton vs. State, 5 S. D. 515.

§ 10. The Legislature may vest the corporate authority of cities, towns and villages, with power to make local improvements by special taxation of contiguous property or otherwise. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

§ 11. The making of profit, directly or indirectly, out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony and shall be punished as provided by law.

§ 12. An accurate statement of the receipts and expenditures of the public moneys shall be published annually, in such manner as the Legislature may provide.

ARTICLE XII.

PUBLIC ACCOUNTS AND EXPENDITURES.

§ 1. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer.

§ 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the Executive, Legislative and Judicial departments of the state, the current expenses of State institutions, interest on the

public debt, and for common schools. All other appropriations shall be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all the members of each branch of the Legislature.

§ 3. The Legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the State, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office; *Provided, however,* that the legislature may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

Somers vs. State, 5 S. D. 321.

§ 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the legislature shall provide, and such statements shall be submitted to the legislature at the beginning of each regular session by the governor with his message.

ARTICLE XIII.

PUBLIC INDEBTEDNESS.

§ 1. Neither the state nor any county, township or municipality shall loan or give its credit or make donations to or in aid of any individual association or corporation except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor pay or become responsible for the debt or liability of any individual, association or corporation; *Provided,* that the state may assume or pay such debt or liability when incurred in time of war for the defense of the state. Nor shall the state engage in any work of internal improvement.

Cutting vs. Taylor, State Auditor, 3 S. D. 11.

§ 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the state may contract debts never to exceed with previous debts in the aggregate \$100,000, and no greater indebtedness shall be incurred except for the purpose or repelling invasion, suppressing insurrection, or defending the state or the United States in war and provision shall be made by law for the payment of the interest annually, and the principal when due, by tax levied for the purpose or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrevocable until such debt is paid; *Provided, however* the State of South Dakota shall have the power to refund the territorial debt assumed by the State of South Dakota, by bonds of the State of South Dakota.

In re State Warrants, 6 S. D. 518; In re State Bonds, 7 S. D. 42.

§ 3. That the indebtedness of the State of South Dakota limited by Section two of this article shall be in addition to the debt of the Territory of Dakota assumed by and agreed to be paid by South Dakota.

§ 4. The debt of any county, city, town, school district, civil township, or other subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein. In estimating the amount of indebtedness which a municipality or subdivision may incur the amount of indebtedness contracted prior to the adoption of this Constitution shall be included.

Provided, that any county, municipal corporation, civil township, district or other subdivision, may incur an additional indebtedness not exceeding ten per centum upon the assessed value of the taxable property therein for the purpose of providing water for irrigation and domestic uses. *Provided, further,* that no county, municipal corporation or civil township shall be included within any such district or subdivision without a majority vote in favor thereof

of the electors of the county, municipal corporation or civil township, as the case may be which is proposed to be included therein, and no such debt shall ever be incurred for any of the purposes in this section provided; unless authorized by a vote in favor thereof of a majority of the electors of such county, municipal corporation, civil township, district or subdivision incurring the same.

NOTE—The foregoing section (4) was submitted by the legislature in 1895, as an amendment to Section 4 of Article 13, of the Constitution, and was adopted at the general election of 1896 by a vote of 28,490 for, and 14,789 against.

That at the general election held on Nov. 4, 1902, Section 4 of Article 13 of the Constitution was amended by a popular vote of 32,810 for to 13,599 against, so as to read as follows;

"SECTION 4. The debt of any county, city, town, school district, civil township or other sub-division, shall never exceed five (5) per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred.

"In estimating the amount of the indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of the constitution shall be included;

"*Provided*, That any county, municipal corporation, civil township, district or other subdivision may incur an additional indebtedness not exceeding ten per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred, for the purpose of providing water and sewerage for irrigation, domestic uses, sewerage and other purposes; and

"*Provided, further*, That in a city where the population is 8,000 or more, such city may incur an indebtedness not exceeding eight per centum upon the assessed valuation of the taxable property therein for the year next preceding that in which said indebtedness is incurred for the purpose of constructing street railways, electric lights or other lighting plants.

"*Provided, further*, That no county, municipal corporation, civil township, district or subdivision shall be included within such district or sub-division without a majority vote in favor thereof of the electors of the county, municipal corporation, civil township, district or other sub-division as the case may be, which is proposed to be included therein, and no such debt shall ever be incurred for any of the purposes in this section provided, unless authorized by a vote in favor thereof by a majority of the electors of such county, municipal corporation, civil township, district or sub-division incurring the same."

§ 5. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

Wilson vs. Board of Education, 12 S. D. 535.

§ 6. In order that the payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of congress approved February 22, 1889, entitled "An Act to Provide for the Division of Dakota into two States and to Enable the People of North Dakota, South Dakota, Montana and Washington to form Constitutions and State Governments and to be Admitted into the Union on an Equal Footing with the Original States, and to Make Donations of Public Lands to such States" the States of North Dakota and South Dakota, by proceedings of a Joint Commission, duly appointed under said act, the sessions whereof were held in Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889 inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

1. This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota, in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

3. The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the Legislative assembly of the Territory of Dakota, approved March 3, 1889, entitled An Act to provide for the refunding of outstanding warrants drawn on the capitol building fund.

4. The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit: Bonds issued on account of the hospital for insane at Jamestown, North Dakota, the face aggregate of which is two hundred and sixty-six thousand dollars; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is ninety-six thousand seven hundred dollars; also, bonds issued on account of the penitentiary at Bismarck, North Dakota, the face aggregate of which is ninety-three thousand six hundred dollars; also refunding capitol building warrants dated April 1, 1889, eighty-three thousand five hundred and seven dollars and forty-six cents.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit: Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is two hundred and ten thousand dollars; also, bonds issued on account of the school for deaf mutes, at Sioux Falls, South Dakota, the face aggregate of which is fifty-one thousand dollars; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is seventy-five thousand dollars; also, bonds issued on account of the penitentiary at Sioux Falls, South Dakota, the face aggregate of which is ninety-four thousand three hundred dollars; also, bonds issued on account of agricultural college, at Brookings South Dakota, the face aggregate of which is ninety-seven thousand five hundred dollars; also bonds issued on account of the normal school at Madison, South Dakota, the face aggregate of which is forty-nine thousand four hundred dollars; also, bonds issued on account of school of mines at Rapid City, South Dakota, the face aggregate of which is thirty-three thousand dollars; also, bonds issued on account of the reform school at Plankinton, South Dakota, the face aggregate of which is thirty thousand dollars; also bonds issued on account of the normal school at Spearfish, South Dakota, the face aggregate of which is twenty-five thousand dollars; also, bonds issued on account of the sold'ers' home at Hot Springs, South Dakota, the face aggregate of which is forty-five thousand dollars.

6. The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore and hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

7. The State of South Dakota shall pay to the State of North Dakota forty-six thousand five hundred dollars on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided

one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of the Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institution; grounds or buildings of the territory situated or located within the boundaries of the other state.

8. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8th, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8th, 1889, to the time of taking effect of this Agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the 8th day of March 1889, based upon earnings of years prior to 1888, under and by virtue of the Act of the Legislative Assembly of the Territory of Dakota, approved March 7th, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this territory," being Chapter 107 of the Session Laws of 1889 (that is, the part of such sum going to the territory) shall be equally divided between the States of North Dakota and South Dakota; and all taxes heretofore or hereafter paid into the said treasury under and by virtue of the Act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the Territorial Treasury shall be divided as follows: North Dakota shall have so * thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; Each state shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8th, 1889. If there be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state as provided in this Article; and if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged to it.

§ 7. And the State of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing Agreement to be its proportion thereof, the same as if such proportion

had been originally created by said State of South Dakota as its own debt or liability.

§ 5. The Territorial Treasurer is hereby authorized and empowered to issue refunding bonds to the amount of \$107,500.00, bearing interest not to exceed the rate of four per cent, per annum, for the purpose of refunding the following described indebtedness of the Territory of Dakota, to-wit:

\$77,500.00 5 per cent bonds, date May 1st, 1883, issued for the construction of the West Wing of the Insane Hospital at Yankton and \$30,000.00, 6 per cent. bonds dated May 1st, 1883, issued for permanent improvements Dakota Penitentiary, at Sioux Falls, such refunding bonds, if issued, to run for not more than twenty years, and shall be executed by the governor and treasurer of the Territory, and shall be attested by the Secretary under the great seal of the Territory.

In case such bonds are issued by the Territorial Treasurer as hereinbefore set forth, before the first day of October, 1889, then upon the admission of South Dakota as a state it shall assume and pay said bonds in lieu of the aforesaid Territorial indebtedness.

ARTICLE XIV.

STATE INSTITUTIONS.

§ 1. The charitable and penal institutions of the State of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind and a reform school.

§ 2. The state institutions provided for in the preceding section shall be under the control of the State Board of Charities and Corrections, under such rules and restrictions as the legislature shall provide; such board to consist of not to exceed five members, to be appointed by the governor and confirmed by the senate, and whose compensation shall be fixed by law.

State ex rel. Lavin et al. vs. Facon et al., 14 S. D. 284-304, 85 N. W. 605.

§ 3. The State University, the agricultural college, the normal schools and all other educational institutions that may be sustained either wholly or in part by the State shall be under the control of a board of five members appointed by the Governor and confirmed by the Senate under such rules and restrictions as the legislature shall provide. The Legislature may increase the number of members to nine.

NOTE—This section (3) was submitted as an amendment to Constitution, Article 14, § 3, by the legislature in 1895, and at the general election in 1896, was adopted by the following vote: 31,061 for, and 11,690 against.

§ 4. The regents shall appoint a board of five members for each institution under their control, to be designated the board of trustees. They shall hold office for five years, one member retiring annually. The trustees of each institution shall appoint the faculty of the same, and shall provide for the current management of the institution, but all appointments and removals must have the approval of the regents to be valid. The trustees of the several institutions shall receive no compensation for their services, but they shall be reimbursed for all expenses incurred in the discharge of their duties, upon presenting an itemized account of the same to the proper officer. Each board of trustees at its first meeting shall decide by lot the order in which its members shall retire from office.

NOTE—Constitution Article 14, § 4, was stricken from the Constitution, by an amendment submitted by the legislature in 1895, and was adopted by the popular vote at the general election in 1896: 31,061 for, and 11,690 against.

§ 5. The legislature shall provide that the science of mining and metallurgy be taught in at least one institution of learning under the patronage of the state.

ARTICLE XV.

MILITIA.

§ 1. The militia of the State of South Dakota shall consist of all able

bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this state.

§ 2. The Legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the state, the preservation of order and the efficiency and good of the service.

§ 3. The legislature in providing for the organization of the militia shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

§ 4. All militia officers shall be commissioned by the governor, and may hold their commissions for such period of time as the legislature may provide, subject to removal by the governor for cause, to be first ascertained by a court-martial pursuant to law.

§ 5. The militia shall in cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

§ 6. All military records, banners and relics of the state, except when in lawful use, shall be preserved in the office of the adjutant general as an enduring memorial of the patriotism and valor of South Dakota; and it shall be the duty of the Legislature to provide by law for the safe keeping of the same.

§ 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

ARTICLE XVI.

IMPEACHMENT AND REMOVAL FROM OFFICE.

§ 1. The House of Representatives shall have the sole power of impeachment.

The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 2. All impeachments shall be tried by the senate. When sitting for that purpose the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the governor or lieutenant governor is on trial the presiding judge of the supreme court shall preside.

§ 3. The governor and other state and judicial officers, except County Judges Justices of the Peace and Police Magistrates shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the state. The person accused whether convicted or acquitted shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 4. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance or crime or misdemeanor in office, or for drunkenness or gross incompetency, in such manner as may be provided by law.

§ 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

§ 6. On trial of an impeachment against the governor the lieutenant governor shall not act as a member of the court.

§ 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

§ 8. No person shall be liable to impeachment twice for the same offense.

ARTICLE XVII.

CORPORATIONS.

§ 1. No corporation shall be created or have its charter extended, changed

or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the legislature shall provide, by general laws for the organization of all corporations hereafter to be created.

§ 2. All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

§ 3. The legislature shall not remit the forfeiture of the charter or any corporation now existing nor alter or amend the same nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

§ 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the state.

§ 5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

§ 6. No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

§ 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

§ 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

§ 9. The Legislature shall have the power to alter, revise or annul, any charter of any corporation now existing and revokable at the taking effect of this Constitution, or any that may be created, whenever in their opinion it may be injurious to the citizens of this state, in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

§ 10. No law shall be passed by the Legislature granting the right to construct and operate a street railroad within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

§ 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph in this state and to connect the same with other lines; and the legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line, or acquire by purchase or otherwise, any other competing line of telegraph.

§ 12. Every railroad corporation organized or doing business in this state under the laws or authority thereof shall have and maintain a public office or place in this state for the transaction of its business, where transfers of its stock shall be made; and in which shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, and

by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities; and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislature shall pass laws enforcing by suitable penalties the provisions of this section.

§ 13. The rolling stock, and all other movable property belonging to any railroad company or corporation in this state shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no laws exempting such property from execution and sale.

§ 14. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given out, at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

§ 15. Railways heretofore constructed or that may hereafter be constructed, in this state are hereby declared public highways, and all railroad and transportation companies are declared to be common carriers and subject to Legislative control; and the Legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carriers from one point to another in this state.

§ 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 17. The Legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

§ 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed, by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking injury or destruction. The Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

§ 19. The term "corporations" as used in this Article, shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

§ 20. Monopolies and trusts shall never be allowed in this State and no incorporated company, co-partnership or association of persons in this State shall directly or indirectly combine or make any contract with any incorporated company, foreign or domestic, through their stockholders or the trustees or assigns of such stockholders, or with any co-partnership or association of persons, or in any manner whatever to fix the prices, limit the production or regulate the transportation of any product or commodity so as to prevent compe-

tition in such prices, production or transportation or to establish excessive prices therefor.

The Legislature shall pass laws for the enforcement of this section by adequate penalties and in the case of incorporated companies, if necessary for that purpose may, as a penalty, declare a forfeiture of their franchises.

NOTE—This section (20) was submitted as an amendment to the Constitution, by the legislature in 1895, and was adopted by a popular vote of the electors of the state at the general election in 1896, by the following vote, for 36,763, against 9,136.

ARTICLE XVIII.

BANKING AND CURRENCY.

§ 1. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this state of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in the approved securities of the State or of the United States, to be rated at ten per centum below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

§ 2. Every bank, banking company or corporation shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue or be sued until its business is fully closed, but the Legislature may provide by general law for the reorganization of such banks.

§ 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares or stock; and such individual liabilities shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

ARTICLE XIX.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

§ 1. Until otherwise provided by law, the members of the House of Representatives of the United States, apportioned to this state, shall be elected by the state at large.

§ 2. Until otherwise provided by law, the senatorial and Representative districts shall be formed, and the Senators and Representatives shall be apportioned as follows:

DISTRICTS.

NOTE—The present apportionment as fixed by Chapter 9, Laws of 1897, is omitted from the Constitution, as the same appears as Article 4 of Chapter 2 of the Political Code.

ARTICLE XX.

SEAT OF GOVERNMENT.

§ 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed State of South Dakota in the same manner and at the same election at which this Constitution shall be submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as hereinafter provided.

§ 2. The legislature at its first session after the admission of this state, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the state at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

§ 3. Should no place voted for at said election have a majority of all votes

cast upon this question, the governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving the majority of all votes cast upon this question shall be the permanent seat of government.

ARTICLE XXI.

MISCELLANEOUS.

§ 1. SEAL AND COAT OF ARMS.] The design of the great seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plow. In the right background a herd of cattle and a field of corn. Between the two parts thus described shall appear a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend, "Under God the People Rule" which shall be the motto of the State of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part, the words, "State of South Dakota," in the lower part the words, "Great Seal," and the date in Arabic numerals of the year in which the State shall be admitted to the Union.

COMPENSATION OF PUBLIC OFFICERS.

§ 2. The Governor shall receive an annual salary of two thousand five hundred dollars; the Judges of the Supreme Court shall each receive an annual salary of two thousand five hundred dollars; the Judges of the Circuit Court shall each receive an annual salary of two thousand dollars; *Provided*, that the Legislature may, after the year one thousand eight hundred and ninety, increase the annual salary of the Governor and each of the Judges of the Supreme Court to three thousand dollars, and the annual salary of each of the Circuit Court Judges to two thousand five hundred dollars. The Secretary of State, State Treasurer and State Auditor shall each receive an annual salary of one thousand eight hundred dollars; the Commissioner of School and Public Lands shall receive an annual salary of one thousand eight hundred dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand eight hundred dollars; the Attorney General shall receive an annual salary of one thousand dollars; the compensation of the Lieutenant Governor shall be double the compensation of the State Senator. They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the legislature to increase the salaries of the officers named in this article except as herein provided.

NOTE.—By the provisions of Chap. 110, laws of 1901, approved Feb. 1, 1901, the salaries of the Governor and Judges of the Supreme and Circuit Courts were increased as contemplated by the above section.

State vs. Roddle, 12 S. D. 433.

§ 3. OATH OF OFFICE.] Every person elected or appointed to any office in this state, except such inferior offices as may be by law exempted, shall before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully to discharge the duties of his office.

§ 4. EXEMPTIONS.] The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws exempting from forced sale a homestead, the value of which shall be limited and defined by law, to and value of which to be fixed by general laws.

COMPACT WITH THE UNITED STATES.

Karcher vs. Gans, 13 S. D. 383; Fallhee vs. Wittmayer, 9 S. D. 479.

§ 5. RIGHTS OF MARRIED WOMEN] The real and personal property of any

woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband. all heads of families, and a reasonable amount of personal property, the kind

ARTICLE XXII.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of the State of South Dakota expressed by their Legislative Assembly:

First, That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second, That we, the people inhabiting the State of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundary of South Dakota, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States; and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands belonging to residents of this State; that no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands, owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation. All such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent, and as prescribed by such act of Congress.

Third, That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this Constitution.

Fourth, That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this State, and free from sectarian control.

ARTICLE XXIII.

AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

§ 1. Any amendment or amendments to this Constitution may be proposed in either House of the Legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this Constitution; *Provided*, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the Legislature may provide; and *Provided, further*, That if more than one amendment be submitted they shall be submitted in such manner that the people may vote for or against such amendments separately.

Lovett vs. Ferguson, 10 S. D. 44; State ex rel. Adams et al vs. Herreld et al., 10 S. D. 109.

§ 2. Whenever two-thirds of the members elected to each branch of the

Legislature shall think it necessary to call a convention to revise this Constitution they shall recommend to the electors to vote at the next election for members of the Legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the Legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the House of Representatives of the Legislature, and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

ARTICLE XXIV.

PROHIBITION.

NOTE.—Article 24 of the Constitution was adopted at the time of the adoption of the Constitution, October 1st, 1889, it being voted upon separately, by the following vote: For, 40,234; against, 34,510. The legislature in 1895 submitted an amendment for the repeal of this article (24), which was adopted by a popular vote of the electors at the general election in 1896, by a vote of 31,901 for, and 24,910 against.

ARTICLE XXV.

MINORITY REPRESENTATION.

NOTE.—Article 25 of the Constitution, was submitted to a separate vote, at the time of the adoption of the Constitution, October 1st, 1889, and was rejected by a vote of 24,161 for, and 46,200 against.

ARTICLE XXVI.

SCHEDULE AND ORDINANCE.

NOTE.—As the provisions of this article (26), with the exception of Sections 17 and 18 thereof, have become obsolete, or fully executed, they have been omitted from this compilation.

§ 17. The Ordinances and Schedule enacted by this Convention shall be held to be valid for all the purposes thereof.

§ 18. That we, the people of the State of South Dakota, do ordain:

First: That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second: That we, the people inhabiting the State of South Dakota, do agree and declare, that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said State, shall never be taxed at a higher rate than the lands belonging to residents of this State. That no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person a title thereto by patent or other grant save and except such lands as have been, or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, all such lands which may have been exempted by any grant or law of the United States, shall remain exempt to the extent, and as prescribed by such act of Congress.

Third: That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this Constitution.

Fourth: That provisions shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this State, and free from sectarian control.

Fifth: That Jurisdiction is ceded to the United States over the military reservations of Fort Meade, Fort Randall, and Fort Sully, heretofore declared by the President of the United States; *Provided* legal process, civil and criminal, of this state shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

These ordinances shall be irrevocable without the consent of the United States, and also the people of the said State of South Dakota, expressed by their Legislative Assembly.

ARTICLE XXVII.

STATE CONTROL OF MANUFACTURE AND SALE OF LIQUOR.

NOTE—Article 27 of the Constitution, providing that the manufacture and sale of liquor, should be under exclusive state control, was submitted by the legislature in 1897, and adopted by a vote of the people, at the general election in 1898, by a vote of 22,170 for, and 20,557 against. The legislature in 1899 submitted an amendment repealing Article 27, and at the general election held in 1900 the amendment was adopted by a vote of 48,673 for and 33,927 against.

ARTICLE XXVIII.

§ 1. The several counties of the State shall invest the moneys of the permanent school and endowment funds in bonds of school corporation, state, county and municipal bonds or in first mortgages upon good improved farm lands within their limits respectively; under such regulations as the legislature may provide, but no farm loan shall exceed one thousand dollars to any one person, firm or corporation.

NOTE—Article 28 was proposed by the legislature in 1899 as an amendment to the Constitution, and was at the general election held in November, 1900, adopted by a popular vote of 49,989 for, and 15,653 against.

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STATE GOVERNMENT, 1903-1904.

OFFICIAL DIRECTORY.

Charles N. Herreid	Governor	Eureka
O. C. Berg	Secretary of State.....	Redfield
J. F. Halladay	State Auditor	Iroquois
C. B. Collins	State Treasurer	Groton
Philo Hall	Attorney General	Brookings
G. W. Nash	Superintendent of Public Instruction	Canton
C. J. Bach	Commissioner	Hurley

SUPREME COURT.

Hon. Dick Haney	Presiding Judge	Mitchell
Hon. Howard G. Fuller	Associate	Faultkton
Hon. Dighton Corson	Associate	Deadwood
Frank Crane	Clerk	Watertown

CIRCUIT JUDGES.

First Circuit	Hon. E. G. Smith	Yankton
Second Circuit	Hon. Joseph W. Jones	Sioux Falls
Third Circuit	Hon. Julian Bennett	Watertown
Fourth Circuit	Hon. Frank B. Smith	Mitchell
Fifth Circuit	Hon. James H. McCoy	Aberdeen
Sixth Circuit	Hon. L. E. Gaffy	Pierre
Seventh Circuit	Hon. Levi McGee	Rapid City
Eighth Circuit	Hon. W. G. Rice	Deadwood
Ninth Circuit	Hon. Chas. S. Whiting	DeSmet

UNITED STATES SENATORS.

Hon. A. B. Kittredge, term expires March 4, 1909	Sioux Falls
Hon. Robert J. Gamble, term expires March 4, 1907	Yankton

REPRESENTATIVES IN CONGRESS.

Hon. Charles H. Burke	Pierre
Hon. Eben W. Martin	Deadwood

RAILROAD COMMISSIONERS.

William G. Smith	Sturgis
Frank LeCocq. Jr.	Harrison
D. H. Smith	Miller
Wm. H. Stanley, Secretary	Sioux Falls

Headquarters for commissioners are at Sioux Falls.

ADJUTANT GENERAL'S DEPARTMENT.

S. J. Conklin Adjutant General.....	Clark
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REGENTS OF EDUCATION, EDUCATIONAL INSTITUTIONS.

M. F. Greeley	Gary
Ivan W. Goodner	Pierre
A. W. Burt	Huron
F. A. Spafford	Flandreau
R. M. Slocum	Herreid

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William M. Powers	Yankton
W. E. Tipton	Armour
D. C. Thomas	Watertown
Jacob Schnaidt, Sr.	Menno
J. D. Lavin	Aberdeen

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S. S. Ruble	Pierre
-------------------	--------

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Thomas Fitch	Milbank
A. S. Stuver	Kimball
T. M. Shanafelt	Huron
N. C. Nash	Canton

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A. L. Peterman	Parker
John W. Ellis	Elk Point
D. W. Robinson	Pierre
H. A. Peabody	Webster

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C. C. Moulton	Faulton
H. A. Fletcher	Watertown
Forrester H. Smith	Groton

Geo. H. Whiting Yankton

MINE INSPECTOR.

Thomas Gregory Lead

INSPECTOR OF OIL.

Emiel Brauch Hurley

PUBLIC EXAMINER.

E. E. Hemingway Brookings

STATE SURVEYOR.

George L. Merriman Bowdle

STATE VETERINARY SURGEON.

J. P. Foster Huron

COMMISSIONER OF INSURANCE.

H. C. Shober, Commissioner Highmore

STATE BRAND AND MARK COMMITTEE

Noah Newbanks Pierre

Geo. McEthron, Huron

H. O. Anderson Sturgis

O. C. Berg, Secretary Redfield

FOOD AND DAIRY COMMISSIONERS.

C. P. Sherwood DeSmet

Members of the Senate, 1903.

EIGHTH SESSION.

Dist.	County.	Name.	Occupation.	P. O. Address.	Pol.
1	Union	August Frieberg	Lawyer	Beresford	Rep.
2	Clay	J. E. Payne	Lawyer	Vermillion	Rep.
3	Yankton	Charles H. Dillon	Lawyer	Yankton	Rep.
4	Bon Homme	J. P. Cooley	Farmer	Tabor	Dem
5	Lincoln	Martin E. Rudolph	Lawyer	Canton	Rep.
6	Turner	William H. Stoddard	Farm., Stk. Dir.	Hurley	Rep.
7	Hutchinson	J. W. Ulmer	Merchant	Menno	Rep.
8	Charles Mix, Doug- las & Gregory ..	Homer W. Johnson ..	Real Estate	Armour	Dem
9	Minnehaha	E. B. Northrup	Loans, Real Est. ..	Sioux Falls	Rep.
9	Minnehaha	Henry Robertson	Lawyer	Dell Rapids	Rep.
10	McCook	E. L. Abel	Banker	Bridgewater	Rep.
11	Hanson	Henry Boehmer	Farmer	Fulton	Dem
12	Davidson	O. L. Branson	Banker	Mitchell	Rep.
13	Aurora	J. H. Close	Farmer	White Lake	Rep.
14	Brule	W. L. Montgomery ..	Banker	Chamberlain	Rep.
15	Moody	Geo. H. Few	Merchant	Flandreau	Rep.
16	Lake	John H. Williamson ..	Lawyer	Madison	Rep.
17	Miner	J. W. Seney	Lumber Dealer	Howard	Rep.
18	Sanborn	A. B. Rowley	Farmer	Mitchell	Rep.
19	Jerauld, Buffalo ..	T. W. Lane	Stockman	Gann Valley	Rep.
20	Brookings	Martin N. Trygstad ..	Farmer	Brookings	Rep.
21	Kingsbury	Adam Royhl	Grain Dealer	Arlington	Rep.
22	Beadle	Fred M. Wilcox	Real Estate	Huron	Rep.
23	Hand	Frank E. Saltmarsh ..	Lawyer	Miller	Rep.
24	Hughes, Sully and Hyde	Cassius C. Bennett ..	Banker	Pierre	Rep.
25	Stanley, Lyman ..	Douglas F. Carlin ..	Stockman	Leslie	Dem
26	Deuel	John T. Newby	Farmer	Goodwin	Rep.
27	Hamlin	E. N. Johnson	Merchant	Dolph	Rep.
28	Codington	C. A. Neill	Harness & Sdlry. ..	Watertown	Rep.
29	Clark	O. H. LaCraft	Asst. Post Mstr. ..	Clark	Rep.
30	Spink	R. H. McCaughey	Banker	Mellette	Rep.
31	Grant	Pierce Cahill	Farmer	Albee	Rep.
32	Day and Marshall ..	E. R. Thompson	Banker	Waubay	Rep.
32	Day and Marshall ..	J. E. McDougall	Lawyer	Britton	Rep.
33	Brown	James M. Lawson	Lawyer	Aberdeen	Rep.
33	Brown	William Koepsch	Farmer	Groton	Rep.
34	Roberts	C. F. Porter	Banker	Willmot	Rep.
35	Faulk and Potter ..	Joseph H. Bottum	Lawyer	Faulton	Rep.
36	Edmunds Walw'th ..	H. G. Boyland	Farmer	Selby	Rep.
37	McPherson, C'mpb'l	John Stoller	Merchant	Eureka	Rep.
38	Lawrence	L. P. Jenkins	Druggist	Lead	Rep.
38	Lawrence	James C. Moody	Lawyer	Deadwood	Rep.
39	Pennington	John F. Schrader	Lawyer	Rapid City	Rep.
40	Meade and Butte ..	Henry E. Perkins	Banker	Sturgis	Rep.
41	Custer, Fall River	John L. Burke	Quarryman	Hot Springs	Rep.

Senate Officers and Employes.

Name.	Position.	Postoffice.
Geo. W. Snow	President	Springfield
J. H. Williamson	President, pro tempore	Madison
J. F. Armstrong	Secretary	Faulton
E. Burt Parker	First Assistant Secretary	Winfred
W. J. Simons	Second Assistant Secretary	Vermillion
J. R. Howell	Bill Clerk	Selby
A. A. Rowen	Chief Clerk Engrossing and Enrolling Bills	Parker
R. E. Grimshaw	First Asst. Engrossing and Enrolling Bills	Deadwood
Orlando Searles	Sergeant-at-Arms	Flandreau
Samuel Harter	Assistant Sergeant-at-Arms	Elk Point
L. G. Walstrom	Postmaster	Vernon
T. McKeon	Assistant Postmaster	Howard
Ed Larson	Watchman and Janitor	Waubay
G. M. Stormont	Messenger and Night Watch	Iroquois
G. T. Notson	Chaplain	Pierre
Walter Trask	Page	Blunt
Frank Tobey	Page	Sioux Falls
Ben Crow	Page	Lead

MEMBERS

OF THE

House of Representatives, 1903.

EIGHTH SESSION.

No. Dist.	Counties.	Name.	Politics.	Occupation.	P. O. Address.
1	Union	O. E. Lawson...	Republican	Farmer	Big Springs
1	Union	F. W. Ryan...	Republican	Farmer	Jefferson
1	Union	Andrew Martin..	Republican	Farmer	Elk Point
2	Clay	M. J. Chaney...	Republican	Banker	Wakonda
2	Clay	John Frieberg...	Republican	Farmer	Vermillion
3	Yankton	Titus E. Price...	Republican	Lawyer	Yankton
3	Yankton	Henry Stoller...	Republican	Farmer	Scotland
3	Yankton	John M. Larson..	Republican	Farmer	Centre Point
4	Lincoln	Willard H. Huff	Republican	Farmer	
4	Lincoln	Wm. M. Brown..	Republican	Farmer	Centerville
4	Lincoln	Jacob S. Kehm...	Republican	Lumber, H'dw're	Harrisburg
5	Turner	Soren C. Nelson..	Republican	Farmer	Centerville
5	Turner	Albert N. Apland	Republican	Farmer	Hooker
5	Turner	A. F. Elliott....	Republican	Hardware	Hurley
6	Hutchinson ..	C. Rempfer....	Republican	Grain dealer ..	Parkston
6	Hutchinson ..	John J. Wipf....	Republican	Hardware	Freeman
6	Hutchinson ..	Geo. E. Scobell..	Republican	Farmer	Scotland
7	Bon Homme ..	Theo. Berndt....	Democrat	Farmer	Tyndall
7	Bon Homme ..	August Koenig...	Democrat	Farmer	Tyndall
8	Douglas	R. Hutchinson..	Democrat	Live Stock	Delmont
9	Charles Mix and Gregory	Irving H. Welch..	Republican	Real estate	Platt
10	Minnehaha ..	R. E. Vreeland..	Republican	Merchant	Sioux Falls
10	Minnehaha ..	P. J. Rogde	Republican	Lawyer	Sioux Falls
10	Minnehaha ..	John A. Egge....	Republican	Farmer	Garretson
10	Minnehaha ..	Chas. J. Mahl....	Republican	Farmer	Hartford
10	Minnehaha ..	L. Renner	Republican	Farmer	Sioux Falls
11	McCook	B. Countryman..	Republican	Grain Dealer ..	Spencer
11	McCook	F. T. Jackson....	Republican	Farmer	Itamsey
12	Hanson	H. Montgomery..	Democrat	Farmer	Alexandria
13	Davison	Mark C. Betts....	Republican	Merchant	Mount Vernon
14	Sanborn	Wm. N. Brown....	Republican	Merchant	Woonsocket
15	Aurora	Gulford Mullen..	Republican	Farmer	Plankinton
16	Jerauld and Buffalo	H. B. Farren....	Republican		Volga
17	Brule	H. C. Mussman..	Republican	Hotelkeeper ..	Colman
17	Brule	W. C. Graybill..	Democrat	Law, Real estate	Trent
18	Miner	F. N. Dexter....	Republican	Grain Buyer ..	Ramona
19	Lake	N. Sampson....	Republican	Farmer	Madison
19	Lake	D. Ferguson....	Republican	Farmer	Canova
20	Moody	W. H. Loucks....	Republican	Farmer	Chamberlain
20	Moody	A. C. Allen	Republican	Farmer	Chamberlain
21	Brookings ..	Ed Hillestad....	Republican	Farmer	Gann Valley

HOUSE OF REPRESENTATIVES, 1903—CONTINUED.

No. Dist.	Counties	Name	Politics	Occupation	Politics
21	Brookings	August King	Republican	Farmer	Brookings
21	Brookings	Geo. W. Brown	Republican	Farmer	Brookings
21	Kingsbury	Martin Madison	Republican	Farmer	Manchester
22	Kingsbury	J. H. Carroll	Republican	Banker	Desmet
22	Beadle	G. S. Hutchinson	Republican	Banker	Huron
23	Beadle	John Longstaff	Republican	Newspaper	Huron
24	Hand	Richard Smith	Republican	Ranchman	Ree Heights
25	Hughes & Sully	T. M. Goddard	Republican	Live Stock	Shiloh
25	Hughes & Sully	A. N. Gerhart	Republican	Lumber	Highmore
26	Stanley & Lyman	Warren Young	Democrat	Ranchman	Interior
27	Clark	J. M. Johnson	Republican	Farmer	Garden City
27	Clark	Anton Frysle	Republican	Farmer	Vienna
28	Codington	A. C. Burnstad	Republican	Farmer	Kent
28	Codington	H. Hildebrandt	Republican	Bookkeeper	Watertown
29	Hamlin	Wm. Trumm	Republican	Farmer	Hayti
30	Deuel	E. E. Dlstad	Republican	Farmer	Astoria
31	Grant	Edgar Kelley	Republican	Farmer	Milbank
31	Grant	I. D. Stelner	Republican	Farmer	Big Stone
32	Marshall	Dan G. Stokes	Republican	Merchant	Britton
33	Roberts	G. J. Jenkins	Republican	Real Estate	Sisseton
33	Roberts	John Teare	Republican	Farmer	Palm
34	Day	S. L. Potter	Republican	Grain Dealer	Webster
34	Day	A. W. Bigelow	Republican	Farmer	Andover
34	Day	Chris Falmer	Republican	Farmer	Waubay
35	Brown	J. L. Browne	Republican	Farmer	Aberdeen
35	Brown	M. V. Redding	Republican	Farmer	Frederick
35	Brown	P. D. Kribs	Republican	Druggist	Columbia
35	Brown	I. D. Tower	Republican	Farmer	Ferney
36	Spink	W. D. Craig	Republican	Farmer	Frankfort
36	Spink	N. P. Bromley	Republican	Lawyer	Redfield
37	Edmunds	John J. Rees	Republican	Farmer	Ipswich
38	McPherson	Jacob Muhlbeler	Republican	Farmer	Eureka
39	Walworth	H. DeMallgnon	Republican	Farm Impl'ts.	Selby
40	Campbell	T. A. Fossum	Republican	Merchant	Herreid
41	Potter	Evan F. Gross	Democrat	Merchant	Gettysburg
42	Faulk	A. J. Porter	Republican	Merchant	Faulton
43	Custer	Miles F. Smith	Populist	Merchant	Buffalo Gap
44	Fall river	Ellis T. Pelrice	Republican	Real Estate	Hot Springs
45	Pennington	Patric Daley	Republican	Mining	Hill City
45	Pennington	Charles Ham	Republican	Stockman	Farmingdale
46	Meade	John D. Hale	Democrat	Farmer	Tillford
47	Butte	R. L. Chunling	Democrat	Merchant	Camp Crook
48	Lawrence	Robt. C. Hayes	Republican	Attorney	Deadwood
48	Lawrence	Alex A. Moodle	Republican	Rec. of Timber	Nemo
48	Lawrence	Ernest May	Republican	Mlner	Lead
48	Lawrence	John H. Russell	Republican	Contractor	Spearfish

House Officers and Employes.

Name.	Position.	Postoffice.
J. L. Browne	Speaker	Aberdeen
J. C. McLemore	Chief Clerk	Lead
Lucian Vreeland	First Assistant Clerk	Gann Valley
George Merriman	Second Assistant Clerk	Akron, Iowa
J. A. Hopper	Sergeant at Arms	Freeman
John McDonald	Assistant Sergeant at Arms	Huron
B. A. Williams	Chief Engrossing and Enrolling Force..	Eureka
Frank Kuhns	Postmaster	Worthing
Z. M. Horseley	Assistant Postmaster	Columbia
R. F. Edwards	Messenger	Redfield
C. F. Vreeland	Chaplain	Pierre
Frank Smith	Janitor	East Pierre
T. O. Thompson	Night Watchman	Vermillion
Charles Tuttle	Page	Madison
William Hargrove	Page	Parker
Ray Goddard	Page	Shilo
Howard Porter	Page	Faulton
H. Gassman	Bill Clerk	Bowdle

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3.....	AN ACT entitled an act to legalize the incorporation of the town of Bryant, Hamlin County, South Dakota. Page 3.
4.....	AN ACT legalizing the sale of lands held and owned by counties, the sale and transfer of which took place prior to the taking effect of chapter forty-three of the laws of 1891, being an act entitled an act authorizing counties in South Dakota to purchase, hold and convey any real estate sold at execution sale held pursuant to any judgment in an action where-to the county shall be a party. Page 3.
5.....	AN ACT legalizing the acts of the board of education of the independent school district of the city of Beresford, South Dakota, in the building, erection, heating, furnishing and completing a new school house in said district, and legalizing all warrants issued by the said board of education in payment for the erection, building, heating, furnishing and completing of the said school building in said district; and authorizing the said board of education to issue bonds for the funding of the said school warrants. Page 4.
6.....	AN ACT to legalize acknowledgments made and taken before Thomas J. Douthitt, a notary public, in and for Yankton county, State of South Dakota since July 7th, 1902. Page 5.
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11.....	AN ACT providing for the burial of the dead, putrid or decaying bodies of animals, and for the expenses of such burial, and imposing a penalty upon the owner or persons in charge of such animals who shall fail, neglect, or refuse to bury the same when required by the superintendent of the county board of health or chairman of the township board. Page 12.

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12	AN ACT entitled an act, amending article 4 of chapter 2 of the revised political code of 1903, relating to senatorial and representative districts and legislative apportionment. Page 14.
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20	AN ACT to appropriate money for the erection of a new building to be known as the armory, on the grounds of the University of South Dakota, to be used in connection with said university. Page 31.
21.....	AN ACT to appropriate money to pay for composition of the index to the revised codes of 1903, as provided for in an act approved February 13, 1903. Page 32.
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29.....	AN ACT entitled an act appropriating money to pay for the building of an extension to the cell hall at the state penitentiary. Page 39.
30.....	AN ACT entitled an act appropriating money to pay for the building of an additional story and roof on the hospital building at the school for deaf mutes at Sioux Falls. Page 39.
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- 17..... AN ACT to provide a revised code of civil procedure for the State of South Dakota, embracing the procedure in civil actions and other proceedings of a civil nature, designated as follows: General definitions and provisions, courts of justice and their jurisdiction, form of civil actions, time of commencing actions, parties to civil actions, place of trial of civil actions, manner of commencing civil actions, pleadings in civil actions, provisional remedies in civil actions, trial and judgment in civil actions, execution of judgment in civil actions, proceedings supplementary to the execution, costs and disbursements in civil actions, appeals in civil actions, proceedings against joint debtors, heirs, devisees, legatees and tenants holding under a judgment debtor, offer of defendant to compromise the whole or a part of the action, admission or inspection of writings, examination of parties, witnesses and evidence, motions and orders, notices and filings and service of papers, duties of sheriffs and coroners, miscellaneous provisions, actions in place of scire facias, quo warranto and of information in the nature of quo warranto, action for the partition of real property, foreclosure of mortgages, actions to determine conflicting claims to real property and other actions concerning real estate, action for nuisance, waste and willful trespass on real property, action to enforce mechanic's liens, action to foreclose liens on chattels, damages for injuries to persons and property, writs of certiorari, mandamus and prohibition, summary proceedings, change of name of persons and places, bastards, trespass of animals, mill dams and mills, providing compensation for private property taken for public or other use or damaged, providing for the restoration of court records, providing for discharging mortgages of record of court when holder is deceased.
- 18..... AN ACT to provide a revised probate code for the State of South Dakota, including certain provisions relating to the county courts of said state, all of which are designated as follows: proceedings in county courts, general jurisdiction of county courts, two classes of county courts, jurisdiction in probate matters, jurisdiction in civil matters, proceedings in matters of probate relating to wills and the probate thereof, to administration of estates and the appointment of administrators, to guardians and guardianship of minors, insane and incompetent persons and destitute children, to the mortgage and sale of estates by executors, administrators and guardians, and other matters usually within probate jurisdiction.
- 19..... AN ACT providing a revised justices' code for the State of South Dakota, embracing the subjects therein defined, as follows: civil proceedings in justices' courts, criminal proceedings in justices courts, justices' quarterly report to county board.
- 20..... AN ACT entitled an act to provide a revised political code for the State of South Dakota prescribing the sovereignty and territorial jurisdiction of the state, and its cessions therefrom; dividing the state into senatorial and representative districts and providing for the number of senators and representatives from each of such districts; prescribing the duties

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liquors; prohibiting the adulteration of foods and dairy products and fixing the duties, powers and compensation of the commissioner thereof; providing for the inspection of oils; providing for the marking and branding of stock, the herding and driving of cattle, the disposition of stray cattle; the quarantining and prevention of contagious diseases of animals; the inspection and quarantining of sheep; the protection of game birds and animals, fish and fur bearing animals; regulating the shipment of stock; providing a bounty on wolves and gophers; providing for fire escapes in public buildings; providing a uniform system of weights and measures; the destruction of noxious weeds; providing for the protection of trade marks and labels; providing for abatractors, defining their qualifications, fixing their duties and liabilities, and prescribing their compensation; providing homes for dependent children; defining the homestead, and providing for the exemption, selection, conveyance and incumbrance thereof and the succession thereto; providing for the political preferment of soldiers and sailors, and the burial of deceased soldiers and sailors at public expense; the attaching of unorganized counties to organized counties for judicial and other purposes; creating the department of history, and defining the duties of the members and officers thereof.

AUTHENTICATION.

STATE OF SOUTH DAKOTA, }
DEPARTMENT OF STATE. } ss.

I, O. C. Berg, Secretary of State of the State of South Dakota, do hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills, except of the revised political code, revised civil code, revised code of civil procedure, revised justices' code, revised probate code, revised penal code, and revised code of criminal procedure, which are by law required to be published in a separate volume; also of joint resolutions proposing amendments to the constitution, passed by the legislature of this state at the Eighth session thereof, begun and held at Pierre, January 6th, A. D. 1903 and concluded March 6, A. D. 1903, as approved by the governor, or which became law by virtue of the limitation of Section 9, article 4, of the constitution of this state, and now on file in this office, with the exception of corrections of certain obvious errors, which corrections appear enclosed in brackets.

In Witness Whereof, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, this the 29th day of April, A. D. 1903.
[SEAL.]

O. C. BERG,
Secretary of State.

THE LAWS.

ACKNOWLEDGMENTS.

CHAPTER 1.

(S. B. 146.)

120 m. 781

RELATING TO DEFECTIVE ACKNOWLEDGEMENTS TO CERTAIN INSTRUMENTS.'

AN ACT providing that certain instruments shall be deemed to impart notice notwithstanding the absence of any acknowledgment or any defect, omission or informality in the execution or acknowledgment thereof, and providing for the reading of evidence of such instruments or the records or certified copies thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1 LEGALIZING DEFECTIVE ACKNOWLEDGEMENTS.] Any instrument affecting real property, which was, previous to the first day of January, 1903, copied into the proper book of record, kept in the office of any register of deeds, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and incumbrancers, notwithstanding any defect, omission or informality in the execution of the instrument, or in the certificate of acknowledgment thereof, or the absence of any such certificate; but nothing herein shall be deemed to affect the rights of purchasers or incumbrancers previous to that date. Such instruments, the records of the same or certified copies thereof, may be read in evidence, with like effect as copies of an instrument duly acknowledged and recorded.

§ 2. EMERGENCY.] Whereas an emergency is hereby declared to exist this act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution has become a law without his approval.

O. C. BERG,
Secretary of State.

ACTS LEGALIZED.

CHAPTER 2.

(S. B. 23)

LEGALIZING THE CHANGES OF ORGANIZATION FROM VILLAGE TO TOWNS.

AN ACT entitled an act construing section 1468 of the revised political code of 1903, and legalizing the change of organization from villages to towns thereunder.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DEFINITION.] The word "town" in the first line of Section 1468 of the Revised Political Code of 1903, being Section 54 of Chapter 24, of the Political Code of 1877, shall be and is hereby construed to include incorporated villages, and the provisions of said section shall apply to all villages heretofore incorporated by special act.

§ 2. ACTS LEGALIZED.] In all cases where villages, incorporated under special charters have attempted to change their organizations to town organizations under the provisions of Chapter 24 of the Political Code of 1877 and the amendments thereto, and are purporting to act under such town organizations, the acts of the boards of trustees or other municipal boards in making such change of organization are hereby declared legal and valid, and such municipalities are hereby declared to be duly incorporated as towns under the provisions of said chapter and amendments thereto; and all official acts of the persons hereafter acting as officers of such municipalities from and after such attempted changes, and all acts of such municipalities since such time are hereby legalized and declared to be valid.

§ 3. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved February 17, 1903.

CHAPTER 3.

(S. B. 78.)

LEGALIZING THE INCORPORATION OF THE TOWN OF BRYANT.

AN ACT entitled an act to legalize the incorporation of the town of Bryant Hamlin county, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACTS LEGALIZED.] That the acts of the county commissioners of the county of Hamlin in the then Territory of Dakota, now State of South Dakota, incorporating and organizing the Town of Bryant, in said County of Hamlin, are hereby legalized and made valid from and after the date of said incorporation, and that all the acts necessary to render said incorporation legal and valid shall be deemed to have been done as provided by law.

§ 2. OFFICIAL ACTS LEGALIZED.] That all the acts of the officials of said town of Bryant, so far as the question of the legality of said incorporation is concerned, are hereby declared to be legal and valid.

§ 3. EMERGENCY DECLARED.] It is hereby declared that an emergency exists, and this act shall be in force from and after its passage and approval.

Approved February 27, 1903.

CHAPTER 4.

(H. B. 202.)

SALE OF LANDS BY COUNTIES.

AN ACT legalizing the sale of lands held and owned by counties, the sale and transfer of which took place prior to the taking effect of chapter forty-three of the laws of 1891, being an act entitled an act authorizing counties in South Dakota to purchase, hold and convey any real estate sold at execution sale held pursuant to any judgment in an action whereto the county shall be a party.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REAL ESTATE TRANSFERS BY COUNTIES.] That all transfers and attempted transfers, and conveyances of the title to any and all real estate owned or held by counties in this state prior to the taking effect of Chapter 43 of the Laws of 1891, approved March 7th, 1891, being an Act "Authorizing Counties in South Dakota to purchase and hold and convey any

real estate sold at execution sale, held pursuant to any judgment in any action where to the county shall be a party, and in case such county has received the full consideration for the lands so attempted to be transferred or conveyed, are hereby legalized, and all such conveyances, whether executed by trustees or persons for and on behalf of such county, so attempting to convey the title of such lands, are hereby declared to convey and to transfer to the grantee of such conveyances, all the right, title and interest of such county in and to the lands described in such conveyance, or attempted conveyance at the time of the execution thereof.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1903.

CHAPTER 5.

(S. B. 92.)

LEGALIZING THE ACTS OF THE BOARD OF EDUCATION OF THE INDEPENDENT SCHOOL DISTRICT OF THE CITY OF BERESFORD.

AN ACT legalizing the acts of the board of education of the independent school district of the city of Beresford, South Dakota, in the building, erecting, heating, furnishing and completing a new school house in said district, and legalizing all warrants issued by the said board of education in payment for the erection, building, heating, furnishing and completing of the said school building in said district; and authorizing the said board of education to issue bonds for the funding of the said school warrants.

Whereas, The independent school district of the city of Beresford, South Dakota, was deprived of its school building by reason of the same being destroyed by a storm, on June 24th, 1902, and

Whereas, By reason of an act passed by the legislature of the State of South Dakota, in the year 1901, limiting the bonded indebtedness of the said district to three per cent of the assessed valuation of the property of the said district, a sufficient amount of funds could not be raised by bonding the said district for the said three per cent of said assessed valuation for the erection of such a building as was required by the needs of said district, therefore,

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACTS OF THE BOARD OF EDUCATION LEGALIZED.] That all the acts of the Board of Education of the Independent School District of the City of Beresford, South Dakota, in erecting, building, heating, furnishing and completing a new school house in said district are hereby legalized and made valid.

§ 2. WARRANTS ISSUED LEGALIZED.] That all warrants issued by the board of education of the Independent School District of the City of Beresford, South Dakota, to the contractor or contractors for the erection,

building, heating, furnishing and completing of a new school house in the said district, are hereby legalized and made valid.

§ 3. AUTHORIZING FUNDING BONDS.] The Board of Education of the Independent School District of the City of Beresford, South Dakota, is hereby authorized and empowered to fund the outstanding warrants of the said district issued by the said board of education of said district for the erection, building, heating, furnishing and completion of a new school house in said district by borrowing money and issuing bonds of the said district, bearing a rate of interest not exceeding seven per cent per annum, payable annually or semi-annually, at such places as may be mentioned upon the face of the bond, which bonds shall be payable in not more than twenty years from their date; and the board of education of said district is hereby authorized to sell such bonds at not less than par.

Provided, that no bonds shall be issued by the said board of education of the said district for the funding of the said warrants until the question shall be submitted to the people of said district and a majority of the qualified electors of the said district who shall vote on the question at an election called for that purpose in the manner now provided by law shall have declared by their votes in favor of issuing such bonds.

Provided, further, That the issuance of said bonds provided for in this act shall not be a sum greater than five per cent of the assessed valuation of said district at the time of the issuance thereof.

§ 4. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in full force from and after its passage and approval,

Approved Feb. 24, 1903.

CHAPTER 6.

(S. B. 188.)

LEGALIZING CERTAIN ACKNOWLEDGMENTS.

AN ACT to legalize acknowledgments made and taken before Thomas J. Douthit, a notary public, in and for Yankton county, State of South Dakota, since July 7th, 1902.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CERTAIN ACKNOWLEDGMENTS LEGALIZED.] That any and all acknowledgments made and taken since the 7th day of July, 1902, before Thomas J. Douthit, a notary public, in and for Yankton county, State of South Dakota, be and the same are hereby declared to be good and valid, and of the same force and effect as if the Notarial Commission of said Thomas J. Douthit had not expired.

§ 2. ACKNOWLEDGMENT AND RECORD DECLARED VALID.] That the acknowledgment and record of all deeds, mortgages and other instruments in writing taken and certified to by said Thomas J. Douthit since July 7th, 1902, be and the same are hereby declared to be legal and valid in all courts of law and equity.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after passage and approval.

Approved March 11, 1903.

CHAPTER 7.

(H. B. 293.)

LEGALIZING THE ACTS OF THE TRUSTEES OF THE VILLAGE OF WHITE ROCK.

AN ACT to legalize the acts of the trustees of the village of White Rock, Roberts, county, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACTS LEGALIZED.] That the acts of the trustees of the village of White Rock in the County of Roberts, and State of South Dakota, appropriating the sum of two hundred dollars during the year 1901 and two hundred dollars during the year 1902 for the purpose of grading a public highway which enters said village are hereby legalized and made valid from and after the date of said appropriation and the acts necessary to render said appropriation legal and valid, shall be deemed to have been done as provided by law.

§ 2. ACTS DECLARED LEGAL AND VALID.] That the acts of the officials of said village of White Rock, so far as the question of legality of appropriating the sums of two hundred dollars for the year 1901 and two hundred dollars for the year 1902 for the purpose of grading said highway is concerned are hereby deemed to be legal and valid.

§ 3. EMERGENCY.] It is hereby declared that an emergency exists and that this act shall be in force from and after its passage and approval.

Approved March 9, 1903.

CHAPTER 8.

(H. B. 77.)

LEGALIZING THE INCORPORATION OF THE TOWN OF HENRY.

AN ACT legalizing the incorporation of the town of Henry, Codington county South Dakota, and the acts of its officers, its ordinances and proceedings.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACTS LEGALIZED.] That the town of Henry in the County of Codington, and State of South Dakota, incorporated on or about the year 1885, the boundaries of which are those of the whole of section five (5), the north half of section eight (8), the northeast quarter of section seven (7), and the east half of section six (6), all in township one hundred and sixteen (116) north, of range fifty-five west, of the fifth P. M., is hereby declared and confirmed an incorporated town under the general laws of this state, with its boundaries as aforesaid, and any and all errors, clerical, or otherwise, in the incorporation of said town are hereby cured, and the said incorporation declared to be valid as of the date of its original incorporation as aforesaid, and all the acts of the officers of said town and all ordinances and taxation proceedings therein had within the proper scope and authority of the statutes of this state concerning incorporated towns and their officers are hereby ratified and declared to be valid, notwithstanding any errors, clerical or otherwise, in the said incorporation proceedings.

§ 2. EMERGENCY.] *Whereas*, an emergency is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved February 21, 1903.

ANIMALS.

CHAPTER 9.

(S. B. 220.)

RELATING TO CRUELTY TO ANIMALS.

AN ACT for the more effectual prevention of cruelty to animals.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CORPORATION MAY BE FORMED.] Any three or more citizens

of the State of South Dakota, who have heretofore, or who shall hereafter, incorporate as a body corporate, under the general laws for incorporations in this state, for the purpose of preventing cruelty to animals, may avail themselves of the privileges of this act.

§ 2. MAY ADOPT BY-LAWS.] Such incorporated societies may make and adopt by-laws governing the admission of associates and members, providing for all meetings, and for assistant and district or local officers, and the organization of branch societies; providing, also, for means and systems for the effectual attainment of the objects contemplated by this act; for the regulation and management of the business affairs, and for the effectual working of the societies; prescribing also the duties of all their officers; *provided*, that such by-laws shall not conflict with the laws of the State of South Dakota, or of the United States, or with any provisions of this act.

§ 3. ARRESTS MAY BE MADE FOR VIOLATION.] All sheriffs, constables, police and peace officers are empowered and directed to make arrests for the violation of any of the provisions of this act, which by this act is denominated a misdemeanor, in the same manner as is by law provided for arrests in all cases of misdemeanors.

§ 4. MEMBERS, OFFICERS, AGENTS.] All members and agents, and all officers of each or any of the societies so incorporated, as shall by the secretaries of said societies be duly authorized in writing, and confirmed by the board of directors, and if within a municipal corporation, approved by the mayor of such municipality, and if within a county beyond the limits of a municipal corporation, approved by the county judge of said county, and sworn in the same manner as are constables and peace officers, shall have power to lawfully interfere to prevent the perpetration of any act of cruelty upon any dumb animal, and may use such force as may be necessary to prevent the same, and to that end may summon to their aid any bystander; they may make arrests for the violation of any of the provisions of this act in the same manner as is herein provided for other officers; and may carry the same weapons that such officers as are named in section three of this act, are authorized to carry; *provided*, that such member and agent shall, when making such arrest, exhibit the badge adopted by the society of which he is the agent. All persons resisting such specially appointed officer as such, shall be deemed guilty of a misdemeanor.

§ 5. CRUELTY TO ANIMALS DEFINED.] Any person, who causes, procures, authorizes, requests or encourages, or personally overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly beats, mutilates, or cruelly kills, any animal, and whoever having the charge or custody of any animal, either as owner or otherwise, willfully or negligently, subjects the same to needless suffering, or inflicts unnecessary cruelty upon the same by docking its tail, or in any manner abuses any animal, or rides, drives or otherwise uses any galled, lame or disabled animal, or with yoke or harness that chafes and galls it, or check-rein or any part of its harness too tight for its comfort, or drives, rides or works any animal when it has

been six consecutive hours without food, shall for every such offense be guilty of a misdemeanor; and any officer of the law, or agent of the humane society finding an animal so abused, shall cause the same to be taken care of, and the expenses therefor shall be a lien thereon, to be paid before the same can be lawfully recovered.

§ 6. UNLAWFUL TO KEEP ANIMAL INJURED PAST RECOVERY.] Every person who keeps any animal which is injured or diseased past recovery, or unfit for any useful purpose and in suffering, or willfully abandons to die any sick or disabled animal, is guilty of a misdemeanor; and every animal so injured or diseased, shall be, by the owner or lawful possessor of the same, deprived of life within twelve hours after having been notified by any peace officer or agent or officer of the humane society to kill the same, and such owner, possessor or person omitting or refusing to comply with the provisions of this section, is guilty of a misdemeanor, and after conviction, the court having jurisdiction of such offense, shall order any peace officer or officer of the humane society to immediately kill such animal.

§ 7. UNLAWFUL TO CARRY IN AN INHUMAN MANNER.] Every person who shall carry, or cause to be carried in or upon any vehicle, or otherwise, any animal in a cruel and inhuman manner, is guilty of a misdemeanor.

§ 8. IMPOUNDED ANIMALS—CARE OF.] Every person who shall impound or permit any animal to be in any building, inclosure, lane, street, square or lot of any city, county or township, without proper care and attention for more than twelve consecutive hours, is guilty of a misdemeanor; and it shall be lawful for any person finding an animal so abused, to cause the same to be taken care of, the same as provided in section five of this act.

§ 9. FIGHT FOR AMUSEMENT PROHIBITED.] Any person who shall for his amusement, or wager for gain, cause any bull, bear, cock, dog or other animal to fight, worry or injure each other; or any person who shall knowingly permit the same to be done on any premises under his charge or control; and any person who shall aid, abet, or be present at such fighting and worrying of such animal, as spectator, is guilty of a misdemeanor.

§ 10. UNLAWFUL TO TRAIN, SPORT.] Whoever owns, possesses, keeps or trains any bird or animal with the intent that such bird or animal shall be killed for sport or amusement, or shall be engaged in an exhibition of fighting or is present at such sport or exhibition, is guilty of a misdemeanor. Any sheriff, constable, police or peace officer, or officer or agent of the humane society, may enter any place where there is any such sport, or exhibition of the fighting of birds or animals, or where preparations are being made for such sport, or exhibition, and, without a warrant, arrest all persons there present.

§ 11. PUNISHMENT.] Every person convicted of a misdemeanor under this act shall be punished as is by law provided for the punishment of misdemeanors. *and 16 Law '09*

§ 12. PROSECUTIONS FOR VIOLATIONS.] All prosecutions for the vi-

olation of any of the provisions of this act shall be conducted and prosecuted in any court of competent jurisdiction; *provided*, that all such prosecutions shall be conducted in the name of the State of South Dakota.

§ 13. DEFINITION OF WORDS.] In this act the singular shall include the plural; the word "animal" shall be held to include every living dumb creature; the words "torture" "torment" and "cruelty" shall be held to include every act, omission or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted, and the words "owner" and "person" shall be held to include corporations as well as individuals; and the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned or employed by, or in the custody of such corporations, shall be held to be the act and knowledge of such corporations as well as such agents or employees.

§ 14. DOES NOT INTERFERE WITH GAME LAWS, ETC.] No part of this act shall be deemed to interfere with any of the laws of this state known as the "game laws" or any laws for the destruction of certain animals known as dangerous to life, limb or property, or to interfere with the right to properly kill any animals used for food, or with any properly conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated medical college or university of the State of South Dakota or any physician and surgeon duly licensed under the laws of this state.

§ 15. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 16. EMERGENCY.] *Whereas*, an emergency exists, it is hereby provided that this act shall take effect from and after its passage and approval.

Approved March 11, 1903.

III N. H. 633.

CHAPTER 10.

(H. B. 247.)

RELATING TO OWNERS OF TRESPASSING ANIMALS.

AN ACT to amend section 819 of the Revised Code of civil procedure of the state of South Dakota of 1903, relating to notifying the owner of trespassing animals of the damages therefor before commencing action for damages.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 819 of the revised code of civil procedure of the State of South Dakota of 1903, being section 5571 of the

compiled laws of 1887, be and the same is hereby amended so as to read as follows :

Section 819. The parties sustaining damages done by animals as mentioned in section 817, before commencing an action thereon shall notify the owner or person having in charge such offending animal or animals, of such damage, the probable amount thereof, *provided*, he knows to whom such animal or animals belong; *provided, further*, that if he does not know to whom such animal or animals belong, and such animal or animals have upon them any brand or brands, which brand or brands are recorded in the office of the secretary of state as secretary of the brand and mark committee, the party or parties sustaining damages as aforesaid shall before commencing an action for such damages, mail to the secretary of state a written notification directed in general terms to the owner or owners of the live stock so branded, describing therein such brand or brands, which notification shall be signed by the party or parties sustaining damages as aforesaid, and said notification shall in other respects comply with the foregoing provisions of this section; which notification shall be enclosed in an envelope and addressed to the secretary of state as secretary of the brand and mark committee at the seat of government, and after the postage thereon is fully prepaid, said envelope shall be deposited in a United States postoffice. Upon receipt of such notification by the secretary of said brand and mark committee it shall be immediately mailed by the said secretary to the person or persons, partnership or corporation appearing by the brand records in his office to the present or last known owner of the live stock so branded, and addressed to the person or persons, partnership or corporation aforesaid at his or their or its last known post office address appearing upon said brand records; the envelope in which the notification is enclosed to be fully prepaid as to postage before mailing the same. And immediately after so mailing the same the said secretary shall in writing over his official signature notify such person or persons who mailed to him such notification of the fact of the receipt by him of such notification and of his having mailed the same to the person or persons, partnership or corporation so as aforesaid appearing to be the owner of said live stock, stating in his notification the name and post office address of the person or persons, partnership or corporation to whom the first notification hereinbefore specified was by him mailed; which notification by the secretary of state to such party or parties so sustaining damages shall be dated, and enclosed in an envelope, the postage thereon fully prepaid by him, and mailed by him to such party or parties so sustaining damages. Which notification by the secretary of said brand and mark committee to such party or parties so sustaining damages shall, in any action commenced by him or them under this section, be prima facie evidence of the facts therein stated. The secretary of said brand and mark committee shall receive as his fees for performing the services herein required of him the sum of fifty cents for each and every notification given by him pursuant to the provisions of this section, including all services by him performed in forwarding the original notification herein provided for; which fee shall be paid by

the party or parties forwarding said notification to the secretary of state, at the time of forwarding the same. And said party or parties, in so forwarding such notification to the secretary of state, shall state in writing in said notification his or their postoffice address. No action shall be commenced for damages as aforesaid, until after the expiration of fifteen days from and after the date of said notification by the secretary of state to the party or parties so sustaining damages.

Approved March 13, 1903.

CHAPTER 11.

(S. B. 38.)

PROVIDING FOR THE BURIAL OF DEAD ANIMALS.

AN ACT providing for the burial of the dead, putrid or decaying bodies of animals, and for the expenses of such burial, and imposing a penalty upon the owner or persons in charge of such animals who shall fail, neglect or refuse to bury the same when required by the superintendent of the county board of health or chairman of the township board.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOARD OF HEALTH—DUTY OF.] Whenever it shall be brought to the knowledge of the superintendent of the board of health of any county in this state, that the dead, putrid or decaying body of any animal is unburied in said county, and is or may become offensive, or endangers or may endanger the health of persons or domestic animals, such superintendent shall forthwith notify the person who was at the time of its death the owner of said animal, and also the person who was at such time in charge thereof if known to him, and residing in said county, to bury the said dead, putrid or decaying body, within a reasonable time to be fixed by the said superintendent.

§ 2. WHEN OWNER FAILS TO BURY.] If the said owner and person in charge shall fail, neglect or refuse to bury the said dead, putrid or decaying body, within the time required by the said superintendent or if said parties are unknown to the said superintendent or do not reside in said county, then the said superintendent of said board of health shall at once cause the same to be buried, and the expenses of such burial shall be paid by the said county.

§ 3. OWNER BECOMES LIABLE TO COUNTY.] The owner of the said animal and the person in charge of the same as aforesaid, shall at once become liable to the said county, for the costs and expenses of such burial and notice and the same may be recovered in an action to be instituted against both or either of such parties.

§ 4. DUTY OF STATE'S ATTORNEY.] Whenever any such dead bodies shall be buried by order of said superintendent of the county board of health, such superintendent shall at once inform the state's attorney, of the fact of such burial, the cost and expenses of such burial and notice, and the names of the owner and person in charge as aforesaid, if known, and the said states attorney shall at once institute an action in the proper court on behalf of said county and against said parties, if known, or if either of said parties is not known or is absent so that service of summons cannot be made, said action shall be instituted against either of said parties who may be known, and [upon] whom service may be had and against any unknown or absent owner or person in charge as soon as he shall become known or service can be made upon him, unless such costs and expenses are sooner paid.

§ 5. BURIAL MUST BE DONE EFFECTIVELY.] The burial provided for above shall be done effectively and thoroughly so that the said body shall not emit any stench or be offensive, or in any way endanger the health of persons or domestic animals.

§ 6. In case the superintendent of the county board of health of any county shall at any time be absent from any organized civil township of said county, the chairman of the board of supervisors of said township may act in his place and may perform in said township all of the acts directed to be performed by the said superintendent of the county board of health, *provided*, that nothing herein contained shall divest the said superintendent of his authority to act in any of the cases arising under the provisions of this act.

§ 7. VIOLATION—PENALTY.] Whenever the owner, or person in charge of any unburied dead animal, shall be notified by the superintendent of the board of health of any county, or chairman of the board of supervisors of any township, that the body of such dead animal is unburied in said county or township, and required by such superintendent or chairman to bury the said body, within a certain time fixed by said superintendent or chairman, and shall fail, to bury the same within the time so fixed, or to cause the same to be done, and the same shall not be done, he shall be liable to a fine of ten dollars for each dead body so left unburied, to be imposed upon trial and conviction in the court of any justice of the peace of said county.

Approved March 11, 1903.

APPORTIONMENT.

CHAPTER 12.

(S. B. 222.)

SENATORIAL AND REPRESENTATIVE DISTRICTS.

AN ACT entitled an act, amending article 4 of chapter 2 of the revised political code of 1903, relating to senatorial and representative districts and legislative apportionment.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That article 4 of chapter 2 of the revised political code of 1903, be amended as follows:

Article 4. Senatorial and Representative districts and legislative apportionment.

Section 28. The state shall be divided into senatorial and representative districts, which districts shall be entitled to the number or numbers of senators and representatives as hereinafter provided, and consisting of forty-five senators and eighty-nine representatives.

Section 29. District No. 1. shall consist of the county of Union and be entitled to one senator.

District No. 2 shall consist of the county of Clay, and be entitled to one senator.

District No. 3 shall consist of the county of Yankton, and be entitled to one senator.

District No. 4 shall consist of the county of Bon Homme, and be entitled to one senator.

District No. 5. shall consist of the county of Lincoln and be entitled to one senator.

District No. 6 shall consist of the county of Turner and be entitled to one senator.

District No. 7 shall consist of the county of Hutchinson and be entitled to one senator.

District No. 8 shall consist of the counties of Charles Mix, Douglas and Gregory, and be entitled to one senator.

District No. 9 shall consist of the county of Minnehaha and be entitled to two senators.

District No. 10 shall consist of the county of McCook and be entitled to one senator.

District No. 11 shall consist of the county of Hanson and be entitled to one senator.

District No. 12 shall consist of the county of Davison and be entitled to one senator.

District No. 13 shall consist of the county of Aurora and be entitled to one senator.

District No. 14 shall consist of the county of Brule, and be entitled to one senator.

District No. 15 shall consist of the county of Moody and be entitled to one senator.

District No. 16 shall consist of the county of Lake, and be entitled to one senator.

District No. 17 shall consist of the county of Miner, and be entitled to one senator.

District No. 18 shall consist of the county of Sanborn and be entitled to one senator.

District No. 19 shall consist of the counties of Jerauld and Buffalo and be entitled to one senator.

District No. 20 shall consist of the county of Brookings and be entitled to one senator.

District No. 21 shall consist of the county of Kingsbury and be entitled to one senator.

District No. 22 shall consist of the county of Beadle and be entitled to one senator.

District No. 23 shall consist of the county of Hand and be entitled to one senator.

District No. 24 shall consist of the counties of Hughes, Sully and Hyde and be entitled to one senator.

District No. 25 shall consist of the counties of Stanley and Lyman and be entitled to one senator.

District No. 26 shall consist of the county of Deuel and be entitled to one senator.

District No. 27 shall consist of the county of Hamlin and be entitled to one senator.

District No. 28 shall consist of the county of Codington and be entitled to one senator.

District No. 29 shall consist of the county of Clark and be entitled to one senator.

District No. 30 shall consist of the county of Spink and be entitled to one senator.

District No. 31 shall consist of the county of Grant and be entitled to one senator.

District No. 32 shall consist of the counties of Day and Marshall and be entitled to two senators.

District No. 33 shall consist of the county of Brown and be entitled to two senators.

District No. 34 shall consist of the county of Roberts and be entitled to one senator.

District No. 35 shall consist of the counties of Faulk and Potter and be entitled to one senator.

District No. 36 shall consist of the counties of Edmunds and Walworth and be entitled to one senator.

District No. 37 shall consist of the counties of McPherson and Campbell and be entitled to one senator.

District No. 38 shall consist of the county of Lawrence and be entitled to two senators.

District No. 39 shall consist of the county of Pennington and be entitled to one senator.

District No. 40 shall consist of the counties of Meade and Butte and be entitled to one senator.

District No. 41 shall consist of the counties of Custer and Fall River and be entitled to one senator.

REPRESENTATIVE DISTRICTS.

Section 30. District No. 1 shall consist of the county of Union and be entitled to three representatives.

District No. 2 shall consist of the county of Clay and be entitled to two representatives.

District No. 3 shall consist of the county of Yankton and be entitled to three representatives.

District No. 4 shall consist of the county of Lincoln and be entitled to three representatives.

District No. 5 shall consist of the county of Turner and be entitled to three representatives.

District No. 6 shall consist of the county of Hutchinson and be entitled to three representatives.

District No. 7 shall consist of the county of Bon Homme and be entitled to two representatives.

District No. 8 shall consist of the county of Douglas, and be entitled to one representative.

District No. 9 shall consist of the counties of Charles Mix and Gregory and be entitled to two representatives.

District No. 10 shall consist of the county of Minnehaha, and be entitled to five representatives.

District No. 11 shall consist of the county of McCook and be entitled to two representatives.

District No. 12 shall consist of the county of Hanson and be entitled to one representative.

District No. 13 shall consist of the county of Davison and be entitled to one representative.

District No. 14 shall consist of the county of Sanborn and be entitled to one representative.

District No. 15 shall consist of the county of Aurora and be entitled to one representative.

District No. 16 shall consist of the counties of Jerauld and Buffalo, and be entitled to one representative.

District No. 17 shall consist of the county of Brule and be entitled to two representatives.

District No. 18 shall consist of the county of Miner and be entitled to one representative.

District No. 19 shall consist of the county of Lake and be entitled to two representatives.

District No. 20 shall consist of the county of Moody and be entitled to two representatives.

District No. 21 shall consist of the county of Brookings, and shall be entitled to three representatives.

District No. 22 shall consist of the county of Kingsbury and be entitled to two representatives.

District No. 23 shall consist of the county of Beadle and be entitled to two representatives.

District No. 24 shall consist of the county of Hand and be entitled to one representative.

District No. 25 shall consist of the counties of Hughes, Hyde and Sully and be entitled to two representatives.

District No. 26 shall consist of the counties of Lyman and Stanley and be entitled to one representative.

District No. 27 shall consist of the county of Clark and be entitled to two representatives.

District No. 28 shall consist of the county of Codington and be entitled to two representatives.

District No. 29 shall consist of the county of Hamlin and be entitled to one representative.

District No. 30 shall consist of the county of Deuel and be entitled to one representative.

District No. 31 shall consist of the county of Grant and be entitled to two representatives.

District No. 32 shall consist of the county of Marshall and be entitled to one representative.

District No. 33 shall consist of the county of Roberts and be entitled to three representatives.

District No. 34 shall consist of the county of Day and be entitled to three representatives.

District No. 35 shall consist of the county of Brown and be entitled to four representatives.

District No. 36 shall consist of the county of Spink and be entitled to two representatives.

District No. 37 shall consist of the county of Edmunds and be entitled to one representative.

District No. 38 shall consist of the county of McPherson and be entitled to one representative.

District No. 39 shall consist of the county of Walworth and be entitled to one representative.

titled to one representative.

District No. 40 shall consist of the county of Campbell and be entitled to one representative.

District No. 41 shall consist of the county of Potter and be entitled to one representative.

District No. 42 shall consist of the county of Faulk and be entitled to one representative.

District No. 43 shall consist of the county of Custer and be entitled to one representative.

District No. 44 shall consist of the county of Fall River and be entitled to one representative.

District No. 45 shall consist of the county of Pennington and be entitled to two representatives.

District No. 46 shall consist of the county of Meade, and be entitled to one representative.

District No. 47 shall consist of the county of Butte and be entitled to one representative.

District No. 48 shall consist of the county of Lawrence and be entitled to four representatives.

§ 2. All acts and parts of acts in conflict with the act are hereby repealed.

Approved March 12, 1903.

APPROPRIATIONS.

CHAPTER 13.

(S. B. 223.)

GENERAL APPROPRIATION BILL.

AN ACT providing for an appropriation for the expenses of the executive and judicial departments of the state, interest on the public debt, and for the current expenses of all the state officers and institutions of the state of South Dakota, for the fiscal years of 1903 and 1904, and insurance on public buildings.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATIONS.] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of any moneys in the state treasury not otherwise appropriated, for the purpose of paying the expenses of the executive and judicial departments of the

state, interest on the public debt, and for current expenses of the state officers and institutions of the State of South Dakota, as hereinafter mentioned for the fiscal years of 1903 and 1904, viz: Office expenses per annum and salaries of the governor, secretary of state, auditor, treasurer, commissioner of school and public lands, attorney general, supreme court, superintendent of public instruction, inspector of mines, public examiner, state veterinary surgeon, interest on public debt, maintenance of state house, university of South Dakota at Vermillion, normal school at Madison, normal school at Spearfish, reform school at Plankinton, agricultural college at Brookings, school of mines at Rapid City, school for deaf mutes at Sioux Falls, penitentiary at Sioux Falls, hospital for insane at Yankton, soldiers home at Hot Springs, state board of charities and corrections, state board of regents, railroad commissioners, state board of health, normal school at Springfield, maintenance and tuition for blind, compensation for clerks in land offices, burial of deceased soldiers and sailors, conveyance of convicts, salary of adjutant general, insurance commissioner's office, state board of pharmacy, insurance on public buildings, state geologist, northern hospital for the insane at Redfield, state historical society, northern normal and industrial school at Aberdeen.

§ 2. SALARIES OF EXECUTIVE AND JUDICIAL OFFICERS.]

	1903.	1904.
For salary of governor	\$ 3,000	\$ 3,000
For salary of secretary of state	1,800	1,800
For salary of auditor	1,800	1,800
For salary of treasurer	1,800	1,800
For salary of commissioner of school and public lands	1,800	1,800
For salary of superintendent of public instruction	1,800	1,800
For salary of attorney general	1,000	1,000
For salary of supreme judges, each \$3,000.....	9,000	9,000
For salary of nine circuit judges, each \$2,500.....	22,500	22,500

§ 3. EXPENSES OF EXECUTIVE AND JUDICIAL OFFICERS.]

First—Governor's office—

For salary of private secretary	\$1,500	\$1,500
For stationery, office supplies, incidentals and stenographer	1,800	1,800
For contingent fund	1,800	1,400
Total	\$5,100	\$4,700

Second—Secretary of state's office—

For salary of assistant, clerks and stenographer.....	\$5,400	\$5,400
For stationery, office supplies and incidentals	1,800	1,800
Total	\$7,200	\$7,200

Third—Auditor's office—

For salary of deputy, clerks and stenographer.....	\$3,450	\$3,450
For stationery, supplies and incidentals and state board of equalization work	1,350	1,350

Fourth—Treasurer's office—

For salary of deputy	\$1,500	\$1,500
For stationery, office supplies, incidentals and stenog- rapher	900	900
Total	\$2,400	\$2,400

Fifth—Attorney General's office—

For salary of assistant	\$1,000	\$1,000
For clerk hire and expenses	2,750	2,750

Sixth—Commissioner of School and Public Lands office—

For salary of deputy, clerks and stenographer.....	\$6,900	\$6,900
For advertising	1,100	1,100
For stationery, office supplies and all other expenses..	3,750	3,750
Total	\$11,750	\$11,750

Seventh—Superintendent of Public Instruction's office—

For salary of deputy, clerk hire and stenographer	\$2,100	\$2,100
For traveling expenses	500	500
For stationery, office supplies, incidentals and inaug- urating and carrying out new scheme of certification	3,400	2,900
Total	\$6,000	\$5,500

Eighth—Supreme Court—

For salary of marshal and librarian	\$1,200	\$1,200
For stenographer for each judge at \$600.....	1,800	1,800
For stationery, law books and incidentals.....	1,200	1,200
For publishing reports	995	995
For salary and expenses of reporter	950	950
Total	\$6,145	\$6,145

§ 4. MAINTENANCE OF STATE HOUSE.]

For maintenance, fuel, lights, janitor work, repairs and insurance	\$4,000	\$5,000
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§ 5. INSURANCE COMMISSIONER'S OFFICE.]

For salary of commissioner	\$1,200	\$1,200
Clerk hire and stenographer	1,600	1,600
For stationery, office supplies and incidentals	1,200	1,000

Total	\$4,000	\$3,800
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§ 6. PUBLIC EXAMINER'S OFFICE.]

For salary of examiner	\$1,500	\$1,500
For salary of deputy and clerk	2,400	2,400
For stationery, office supplies and other expenses.....	2,400	2,400

Total	\$6,300	\$6,300
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§ 7. FOOD AND DAIRY COMMISSIONER.]

For salary of commissioner	\$1,200	\$1,200
For salary of deputy and stenographer	1,000	1,000
For stationery, office supplies and other expenses	1,500	1,500

Total	\$3,700	\$3,700
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§ 8. MINE INSPECTOR'S OFFICE.]

For salary of inspector	\$1,200	\$1,200
For expenses	750	750

Total	\$1,950	\$1,950
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§ 9. STATE VETERINARY SURGEON'S OFFICE.]

For salary state veterinary surgeon	\$1,500	\$1,500
For expenses	600	600

Total	\$2,100	\$2,100
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§ 10. SOUTH DAKOTA NATIONAL GUARD.]

For salary of adjutant general	\$1,500	\$1,500
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§ 11. STATE BOARD OF CHARITIES AND CORRECTIONS.]

For salaries or per diem of members of board	\$7,500	\$7,500
For expenses of members of board	1,000	1,000

Total	\$8,500	\$8,500
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For salaries of members of board from March 1, to July 1, 1903.	\$2,500	
§ 12. STATE BOARD OF HEALTH.]		
For per diem and expenses of members	\$750	\$750
§ 13. STATE BOARD OF PHARMACY.]		
For stationery, supplies and printing	\$300	\$300
§ 14. STATE BOARD OF REGENTS.]		
For salary of regents	\$5,000	\$5,000
For expenses of regents	1,500	1,500
For salary and expenses of secretary and stenographer	1,500	1,500
Total	\$8,000	\$8,000
§ 15. STATE BOARD OF RAILROAD COMMISSIONERS.]		
For salaries of commissioners	\$4,500	\$4,500
For expenses of commissioners and secretary	1,155	1,155
For salary of secretary	1,200	1,200
For stationery, office expenses and incidentals	1,650	1,650
For salary and expenses of warehouse and scale inspector	1,000	1,000
For litigation fund to be used as necessary in whole or in part during the fiscal years 1903 and 1904..	3,500	
Total	\$13,005	\$9,505
§ 16. STATE HISTORICAL SOCIETY.]		
For secretary's salary	\$1,400	\$1,400
For curator's salary	600	600
For incidental expenses in historical and statistical research, museum, office supplies, freight and express furniture	900	900
§ 17. GEOLOGICAL SURVEY.]		
For field work, printing and other expenses	\$1,000	\$1,000
§ 18. UNITED STATES LAND OFFICE FEES.]		
For payment of U. S. land office fees for lists of taxable lands	\$375	\$375

§ 19. BURIAL OF SOLDIERS AND SAILORS.]
 For burial of deceased soldiers and sailors \$2,000 \$2,000

§ 20. CONVEYANCE OF CONVICTS.]
 For conveyance of convicts to the penitentiary \$3,500 \$3,500

§ 21. ABERDEEN NORTHERN NORMAL INDUSTRIAL SCHOOL.]
 For salaries of president, teachers and employes \$13,500 \$13,500
 For maintenance, fuel, lights and furniture 5,500 4,000
 For artesian well 1,000

§ 22. SOUTH DAKOTA AGRICULTURAL COLLEGE.]
 For salaries of president, teachers and employes \$10,000 \$10,000
 For maintenance, fuel, lights, water and repairs 17,500 17,500
 For sub-station at Highmore 1,000 1,000
 For purchase of pure bred stock and farm expenses.. 3,000 3,000
 For equipment of mechanical laboratory 7,500
 For remodeling old mechanical building..... 5,000

Total \$44,000 \$31,500

§ 23. MADISON STATE NORMAL SCHOOL.]
 For salaries of president, teachers and employes \$15,000 \$15,000
 For maintenance, fuel, lights, library, water, electric
 light plant and repairs, kitchen and laundry 8,150 8,150

§ 24. SPEARFISH STATE NORMAL SCHOOL.]
 For salary of president, teachers and employes..... \$12,000 \$12,000
 For maintenance, fuel, lights, repairs and improve-
 ments on grounds 4,550 4,550

§ 25. SPRINGFIELD STATE NORMAL SCHOOL.]
 For salaries of president, teachers and employes \$12,000 \$12,000
 For maintenance, fuel, lights and repairs, and furnish-
 ing of new building 4,550 4,550

§ 26. STATE SCHOOL OF MINES.]
 For salaries of president, teachers and employes \$14,000 \$14,000
 For maintenance, fuel, lights, library and repairs 6,000 6,000
 For field explorations 1,000 1,000

§ 27. UNIVERSITY OF SOUTH DAKOTA.]

For salaries of president, teachers and employes	\$35,000	\$40,000
For maintenance, fuel, lights, repairs, libraries and engineering department	12,000	12,000
For repairs on West Hall and for no other purpose	4,000	

Total	\$51,000	\$52,000
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§ 28. SCHOOL FOR BLIND.]

For salaries of officers and employes	\$3,000	\$3,500
For maintenance, fuel, lights, repairs, school apparatus and furniture	9,500	8,000

Total	\$12,500	\$11,500
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§ 29. HOSPITAL FOR INSANE.]

For salaries of officers and employes	\$37,000	\$37,000
For maintenance, fuel and lights	71,000	76,000

Total	\$108,000	\$113,000
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§ 30. NORTHERN HOSPITAL FOR THE INSANE.]

Salaries of officers and employes	\$7,000	\$8,000
For maintenance, fuel, lights, cows and improvements	8,700	9,000
For furnishings		4,000

§ 31. SOUTH DAKOTA PENITENTIARY.]

For salaries of officers and employes	\$16,200	\$16,200
For maintenance, fuel, light, water tank dynamo and repairs	26,800	23,000
For stone quarry and cutting stone	4,000	2,000

§ 32. REFORM SCHOOL.]

Salaries of officers and employes	\$6,000	\$6,000
For maintenance, fuel, lights, repairs, printing, music and library	19,300	17,800
For creamery and purchase of cows	1,500	

Total	\$26,800	\$23,800
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§ 33. SCHOOL FOR DEAF MUTES.]

For salaries of officers and employes	\$6,000	\$6,000
For maintenance, fuel, lights, repairs, library, furniture and bath room	10,900	10,700

Total	\$16,900	\$16,700
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§ 34. SOLDIERS HOME.]

For salaries of officers and employes	\$8,250	\$8,250
For maintenance	29,000	26,000
For commutation of rations	600	600
For expense and per diem of commissioners	1,400	1,400
Total	\$39,250	\$36,250

§ 34½. WOMAN'S COMMITTEE OF INVESTIGATION.]

For per diem, mileage and expenses	\$700	\$700
For deficiency of per diem, mileage and expenses of the years 1901 and 1902.	50x	

§ 35. INSURANCE ON PUBLIC BUILDINGS.]

For insurance on public buildings erected and in course of erection to be expended under the direction of the board of charities and corrections	\$8,400	\$1,500
For insurance on public buildings erected and in the course of erection to be expended under the direction of the board of regents	6,900	500
For insurance on soldiers' home to be expended under the direction of the board of commissioners of soldiers' home	1,200	

The sums appropriated for the year 1904 being for insurance on buildings to be erected during the fiscal years of 1903 and 1904.

§ 36. BONDED INDERTEDNESS.]

For payment of interest on outstanding bonds payable from bond interest and sinking funds	\$17,500	\$17,500
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§ 37. DUTY OF THE STATE AUDITOR.] All amounts herein appropriated shall be used for the specific purposes herein mentioned, and no other, and the state auditor shall issue his warrants on certified itemized vouchers and proofs filed in his office, except that all items of appropriations for salaries and compensation for state and judicial officers, deputies, clerks and employes thereof, and the item of contingent fund for the executive office, shall be payable in equal monthly installments, on certified vouchers being filed in the office by the person or department entitled to the same.

§ 38. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed, and the state auditor shall issue no warrants in excess of the appropriation made herewith, or to state institutions, state officers or boards, whether appointed or elected, except as provided by the provisions of this act or may hereafter be provided by law.

Approved March 12, 1903.

CHAPTER 14.

(H. B. 32.)

APPROPRIATION FOR MILEAGE AND PER DIEM AND SALARIES OF MEMBERS AND EMPLOYES OF THE LEGISLATURE.

AN ACT appropriating money for the per diem, mileage and salaries of the president and members of the senate and house of representatives of the Eighth legislature of the State of South Dakota and for the per diem and mileage of the retiring secretary of the senate and the chief clerk of the house of representatives and for the per diem of the sub-employees of both branches of the legislature.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of the general fund of the state the following sums of money or so much thereof as may be necessary for the purpose of paying the per diem, mileage and salaries of the president and members of the Senate and the members of the House of representatives of the eighth legislature of the State of South Dakota and for the per diem and mileage of the retiring secretary of the senate and the chief clerk of the house of representatives and the per diem of the subordinate employes of both branches of the legislature, to-wit: For the per diem of the president of the senate \$600.00; mileage of the president of the senate \$46.80; per diem of members of the senate \$13,500.00; mileage of members of the senate \$1,450.00; officers and employes of the senate \$8,000.00; for the per diem of the members of the house \$26,125.00; mileage of the members of the house \$2,700.00; for per diem of employes of the house \$8,500.00; to J. H. Scriven for services and expenses of opening the session in the senate, 1903, \$25.00; W. A. Remer for services and expenses of opening the session in the house, 1903, \$93.10. Indexing, comparing correcting and writing the Journal of the senate in permanent form and furnishing the same to the printer, nine hundred dollars (\$900.00); Geo. W. Snow, lieutenant governor, mileage as member of the state canvassing board for the years 1901 and 1902, four hundred sixty-eight miles each trip, \$93.60; Geo. W. Snow, lieutenant governor, as member of the state canvassing board for the years 1901 and 1902, \$20.00.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in force and effect on and after its passage and approval.

Approved January 20, 1903.

CHAPTER 15.

(S. B. 210.)

APPROPRIATION FOR SEWER FOR THE SCHOOL FOR DEAF MUTES AT SIOUX FALLS.

AN ACT entitled an act to appropriate money for building a sewer from the school buildings of deaf mutes in the city of Sioux Falls to the big Sioux River in said city.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of the moneys in the general fund of the State of South Dakota, not otherwise appropriated, the sum of five thousand dollars (\$5000.00) for the purpose of building and construction of a sewer from the school buildings of Deaf Mutes in the city of Sioux Falls to the Big Sioux river in said city.

§ 2. Said sewer shall be built and constructed under the supervision of the Board of Charities and Corrections.

§ 3. The state auditor shall issue his warrants upon the treasurer for such amounts not to exceed the above sum as may be presented to him upon itemized vouchers properly certified by the State Board of Charities and Corrections for the construction and building of said sewer, and upon presentation of said warrants, the State Treasurer shall pay the same.

§ 4. Should any person, persons, corporation or association, wish to connect with said sewer after its completion the price to be paid for such connection shall be fixed and determined by the board of Charities and Corrections and the city council of the city of Sioux Falls and all amounts received for such connection shall be paid to the treasurer of the State of South Dakota and to the city of Sioux Falls in proportion to the amounts expended by the State of South Dakota, and the city of Sioux Falls in the construction of said sewer.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 16.

(H. B. 228*)

PROVIDING FOR COMMISSIONERS TO FIX THE BOUNDARY LINE BETWEEN THE
STATE OF SOUTH DAKOTA AND NEBRASKA.

AN ACT authorizing the governor of the State of South Dakota to appoint three commissioners of said State of South Dakota, to act with a like commission of the State of Nebraska, in agreeing upon a boundary line on the south side of Union county, between said State of South Dakota and Nebraska and making an appropriation for the expenses of such commission and prescribing their powers and duties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. GOVERNOR TO APPOINT.] The Governor of the State of South Dakota is hereby authorized and required to appoint a commission of three residents of the State of South Dakota whose term as such commissioners shall be from the date of such appointment to the first day of January, 1905, and each of whom shall receive for their services the sum of (\$10.00) Ten Dollars per day for a term not exceeding twenty days, and their actual expenses, which shall not exceed four hundred dollars.

§ 2. DUTIES AND POWERS OF COMMISSIONERS.] The said commission on behalf of the State of South Dakota shall have authority to meet with a like commission of like powers from the State of Nebraska, and with such like commissioners to have power and authority, and so jointly meet, of agreeing upon a boundary line and to report the same to the Governor which boundary line shall be the dividing line between the States of South Dakota and Nebraska, upon the ratification by the said States of South Dakota and Nebraska, of the conclusions of the said joint commissions and also by the Congress of the United States agreeing to said dividing line as such boundary.

§ 3. APPROPRIATION.] There is hereby appropriated out of any money in the hands of the State treasurer the sum of one thousand dollars (\$1,000) or so much thereof as may be necessary for the purpose of paying the salary and expenses of said commissioners while so employed.

§ 4. COMMISSIONERS—WHEN APPOINTED.] *Provided*, however, that the Governor of the State of South Dakota shall not proceed to make the appointment of said three commissioners to act on behalf of the state of South Dakota, until the legislature of the State of Nebraska shall have by proper enactment provided for a like commission on behalf of the State of Nebraska to make up said joint commission.

Approved March 9, 1903.

CHAPTER 17.

(S. B. 233.)

APPROPRIATING MONEY FOR THE JUDGE OF THE NINTH JUDICIAL CIRCUIT.

AN ACT to appropriate money to pay the salary of the judge of the ninth judicial circuit from the date of his appointment and qualification to the end of the fiscal year ending June 30th, 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for the purpose of paying the salary of the judge of the ninth judicial circuit from the date of his appointment and qualification to the end of the present fiscal year, June 30, 1903, the following sum of money or so much thereof as may be necessary to-wit: Seven hundred and thirty dollars.

§ 2. EMERGENCY.] There being no appropriation available for paying this compensation, an emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 18.

(H. B. 158.)

APPROPRIATING MONEY TO PAY MONEY ADVANCED AND MATERIAL FURNISHED AT THE REFORM SCHOOL.

AN ACT to appropriate money to pay for money advanced, and material furnished at the Reform School at Plankinton, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there be and is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the following sum of money or so much thereof as the board of charities and corrections may find due such claimants in full settlement of their claims to pay deficiency in the state reform school located at Plankinton, South Dakota, the sum of nineteen hundred sixteen dollars and forty-six cents (\$1916.46).

J. C. Calder, for coal	\$121.10
C. W. Ainsworth, money paid for help	800.99

Seth Noble, supplies	889.99
Lichenstien, supplies	54.50
A. E. Cramer, supplies	49.88
Total	<u>\$1,916.46</u>

§ 2. DUTY, AUDITOR.] It shall be the duty of the state auditor to issue warrants for funds so appropriated upon properly certified vouchers which have been approved by the board of charities and corrections; and

Whereas, an emergency exists, this act shall take effect immediately after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 19.

(H. B. 155.)

APPROPRIATING MONEY FOR HOSPITAL FOR INSANE AT YANKTON.

AN ACT to appropriate money for the construction, equipment and furnishing additional buildings; for fireproofing and repairing the main building; for construction of a barn and the purchase of milch cows; and for the construction of a sewerage disposal plant for the South Dakota Hospital for the insane at Yankton, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State treasury, not otherwise appropriated, the following sums for the purposes herein named, or so much thereof as may be necessary:

For the construction of a cottage upon the grounds of the South Dakota Hospital for the Insane at Yankton, South Dakota, to be used by the patients of said hospital and for the treatment of acute cases, to be constructed during the year 1903, the sum of thirty thousand (\$30,000) dollars.

For furnishing and equipping said building the sum of five thousand (5,000) dollars.

For the construction of a cottage on said grounds for the use and occupancy of infirm patients, to be constructed during the year 1904, the sum

of thirty thousand (\$30,000) dollars.

For repairing and fireproofing of the main building, to be done during the year 1904, the sum of ten thousand (\$10,000) dollars.

For the construction of a barn upon said grounds and for the purchase of milch cows for the use of said hospital, the sum of eight thousand (\$8,000) dollars.

For the construction of a sewerage disposal plant upon said grounds the sum of five thousand (\$5,000) dollars.

§ 2. BOARD OF CHARITIES AND CORRECTIONS TO HAVE SUPERVISION—DUTY OF AUDITOR.] Said improvements and purchases specified in Section 1 of this act shall be under the supervision of the Board of Charities and Corrections, and the state auditor shall issue warrants upon the treasurer in payment for the said improvements and purchases, upon properly certified vouchers from the said board, and upon presentation of said warrants the State Treasurer shall pay the same.

Approved March 12, 1903.

CHAPTER 20.

(H. B. 28.)

APPROPRIATION FOR AN ADDITIONAL BUILDING FOR THE UNIVERSITY OF SOUTH DAKOTA.

AN ACT to appropriate money for the erection of a new building to be known as the armory, on the grounds of the university of South Dakota, to be used in connection with said university.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there be and there is hereby appropriated out of any moneys in the state treasury during the year 1904 not otherwise appropriated, the sum of twenty-five thousand dollars (\$25,000) or so much thereof as may be necessary for the construction of a new building to be known as the armory, and to be used for an armory and drill hall for the military department of the university, for a gymnasium, and for class rooms and office rooms, and for such other purposes as the board of regents may deem proper, to be erected upon the grounds of the university of South Dakota, at Vermillion, to be used in connection with said university.

§ 2. REGENTS TO HAVE SUPERVISION.] Said building shall be erected under the supervision of the board of regents, and the state auditor, shall issue warrants upon the treasurer in payment for the construction thereof, upon properly certified, itemized vouchers from said board, and upon presentation of such warrants the treasurer shall pay the same.

§ 3. CONTRACT.] Said building shall be erected by contract after receiving bids.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 21.

(S. B. 202.)

APPROPRIATION FOR INDEXING THE REVISED CODE.

AN ACT to appropriate money to pay for composition of the index to the Revised Codes of 1903 as provided for in an act approved February 13, 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the money in the state treasury not otherwise appropriated one thousand two hundred fifty dollars (\$1250.00) or so much thereof as may be necessary to pay for composition of the index provided for in an act approved Feb. 13, 1903. *Provided* that no amount shall be allowed for paper, binding and printing of such index, but in lieu of the indexes prepared by the code commission in preparing the revised code of 1903, according to chapter 183 laws of 1901, the State Publishing Company is authorized to substitute in the official edition of the Code of 1903 the index provided for by House Bill No. 13, approved February 13, 1903.

§ 2. *Whereas*, the publication of the codes of 1903 is necessary before July 1st, 1903, an emergency is declared to exist and this act shall go into effect immediately after its passage and approval, and the state auditor shall draw his warrant for such composition on vouchers approved by the commissioner of printing, certifying that such composition has been performed and is ready for printing.

Approved March 12, 1903.

CHAPTER 22.

(H. B. 250.)

APPROPRIATING MONEY FOR THE STATE PENITENTIARY.

AN ACT to appropriate money to prevent deficiencies in the funds for maintenance, fuel light, and salaries of officers and employes and repairs at the state penitentiary.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any money in the treasury of the State of South Dakota, not otherwise appropriated, the sum of six thousand dollars, or so much thereof as may be necessary to prevent deficiencies in the funds of salaries of officers and employes, for maintenance and for fuel and light and for repairs at the State Penitentiary for the fiscal year ending June 30, 1903, to be expended as may be lawfully directed by the State Board of Charities and Corrections.

§ 2. EMERGENCY.] Whereas, by storm on January 6, 1903, a considerable damage was done to the buildings at the State Penitentiary, necessitating the immediate expenditure of a large sum for repairs, and, whereas, by reason of the largely increased price of coal, the fuel for the current year for said institution has cost about five hundred dollars more than for the preceding year, and, whereas, by the loss of its corn crop by reason of frosts in the season of 1902, said institution sustained a loss to its cash fund of at least fifteen hundred dollars, and whereas, by reason of an extraordinary increase of population at said institution the necessary expenditures for running said institution for the current year will exceed two thousand dollars over the expenditures for the preceding year, and whereas, during the current year no moneys have been received from the disposal of building stone as in previous years, there being no demand for it for state buildings at the present time, and there is on hand at the said institution prepared stone of the value of about three thousand dollars, but for which no funds can be secured available for the current year, and whereas, the number of United States prisoners at said institution, which are a source of revenue thereto, have materially decreased during the current year, causing a loss of available cash to said institution of several hundred dollars; by reason of all of which the available cash in the several said funds of said institution will be exhausted prior to the close of said fiscal year, and no funds will be available to pay the running expenses of said institution, an emergency is therefore declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 12, 1903.

CHAPTER 23.

(H. B. 56.)

APPROPRIATION FOR BUILDING IN CONNECTION WITH THE STATE SCHOOL OF MINES.

AN ACT to appropriate money for the erection of an annex to the building for class rooms, laboratories and general school purposes, upon the grounds of the state school of mines at Rapid City, South Dakota, for the furnishing of the same when completed; for the equipment of the physical laboratory; for power house for steam plant for heating purposes and dynamo for physical laboratory and lighting in connection with said school.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of fifteen thousand (\$15,000) dollars, or so much thereof as may be necessary for the erection of an annex to the building for class rooms, laboratories and general school purposes, upon the grounds of the State School of Mines at Rapid City, South Dakota, to be used in connection with said school, and the further sum of three thousand dollars (\$3,000) or so much thereof as may be necessary to furnish and equip said building when completed, and for the further sum of two thousand dollars (\$2,000), or so much thereof as may be necessary for the equipment of the physical laboratory connected with said school of mines, and for the further sum of five thousand (\$5,000) dollars, or so much thereof as may be necessary for power house for steam plant for heating purpose and dynamo for physical laboratory and lighting in connection with said school.

§ 2. REGENTS TO HAVE SUPERVISION—DUTY OF AUDITOR.] Said building shall be erected and the expenditure of the moneys hereby appropriated shall be under the control and management of the board of regents of education of the state of South Dakota, and the state auditor shall issue warrants upon the treasurer in payment for the construction of said building and the expenditures of moneys for the furnishing, equipping and improvements heretofore named, upon properly certified and itemized vouchers from said board of regents, and upon the presentation of such warrants the treasurer shall pay the same.

§ 3. ERECTED BY CONTRACT.—COMPLETED WHEN.] Said building shall be erected, and the furnishings, equipping and improvements hereinbefore named, by contract after receiving bids, and shall be ready for occupancy on or before the first day of September, 1904.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG.
Secretary of State.

CHAPTER 24.

(S. B. 183.)

Ref. by ch. 157.
June 1910

RELATING TO FIREMEN'S TOURNAMENTS.

AN ACT providing for the holding of annual firemen's tournaments and the appropriation of money out of the state treasury for the expenses thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PUBLIC INSTITUTION.] That the State Firemen's Association, the same being an association of the municipal fire departments of this State be and the same is hereby, made a public state institution of the State of South Dakota.

§ 2. APPROPRIATION.] There is hereby appropriated out of the general fund of the state treasury, not otherwise appropriated, the sum of one thousand dollars (\$1000) per annum, to be paid into the treasury of the State Firemen's Association of the State of South Dakota, for the purpose of defraying the expenses of annual tournaments of the municipal fire departments composing said State organization.

§ 3. ANNUAL TOURNAMENT.] The State Firemen's Association shall hold an annual tournament for the purpose and with the duties among others of examination and drill in the various departments testing the modern methods and apparatus in the extinguishment of fire and in general to encourage and promote the ability of firemen to protect property, from loss and destruction by fire, at a time to be determined by said association between June 1st, and August 1st, at any city or town in this state to be selected by said association, *provided*, the city or town so selected shall contribute and pay into the treasury of said State Firemen's Association a sum of not less than five hundred dollars (\$500) to be used in paying the usual expenses of said organization in accordance with its existing rules and regulations, or such rules and regulations as it may hereafter adopt.

§ 4. EMERGENCY.] *Whereas*, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 25.

(H. B. 59.)

APPROPRIATING MONEY FOR OLIVER GIBBS.

AN ACT to reimburse Oliver Gibbs for moneys advanced to promote the state exhibit at the Chicago Worlds Fair.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated from the general fund out of any money not otherwise appropriated one thousand dollars, which sum shall be in full settlement for all claims against the State by said Gibbs to reimburse Oliver Gibbs for moneys advanced to promote the State exhibit at the Chicago World's Fair.

§ 2. An emergency is hereby declared and this act shall take effect and be in force from and after its passage.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 26.

(H. B. 277.)

APPROPRIATING MONEY FOR TRANSCRIBING AND INDEXING THE PERMANENT JOURNALS.

AN ACT to provide for transcribing, indexing and furnishing copy to the state printer the permanent journal of the house of representatives for the eighth session, and making an appropriation therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the state treasury not otherwise appropriated the sum of nine hundred dollars (\$900) for transcribing, indexing and furnishing copy to the State printer of the permanent journal of the house of representatives for the eighth legislative session.

§ 2. TIME ALLOWED.] The chief clerk shall be allowed one hundred and eighty (180) days from the close of the present session in which to transcribe in permanent form the journal of the house of representatives

for the eighth session, to make an index of the same, and furnish copy to the state printer, and his compensation shall be five dollars (\$5.00) per day; *provided*, however, that full payment of the amount herein appropriated shall not be made until the transcribed journal is filed with the secretary of state.

§ 3. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force on and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 27.

(H. B 219.)

APPROPRIATING MONEY TO PAY JUDGMENT OF L. V. SCHNEIDER, ET AL, VS.
THE STATE OF SOUTH DAKOTA.

AN ACT to provide for an appropriation to pay the judgment of L. V. Schneider, et al, vs, the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the sum of twenty-nine dollars and eighty cents, out of the general fund to pay the judgment recovered against the State of South Dakota by L. V. Schneider et al, which said judgment is dated April 15, 1899, being for costs recovered by the said L. V. Schneider et al, in the Circuit Court of the Second Judicial Circuit of the State of South Dakota, in and for the county of McCook in the suit of the State of South Dakota against Stephen Welbes, et al.

§ 2. DUTY OF AUDITOR.] The auditor is hereby authorized to draw a warrant for the payment of the judgment referred to in section 1 of this act, and the treasurer is directed to pay such warrant.

§ 3. EMERGENCY.] This appropriation being for the payment of a judgment against the state and there being no law providing for the payment thereof, it is declared that an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 28.

(H. B. 168.)

APPROPRIATING MONEY FOR ADDITIONAL BUILDING FOR SOUTH DAKOTA AGRICULTURAL COLLEGE.

AN ACT, entitled "an act to appropriate money for buildings and improvements for the South Dakota Agricultural College at Brookings."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION FOR BARN AND [ON] COLLEGE FARM.] That there is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of twelve thousand dollars (\$12,000) or so much thereof as may be necessary for the erection of a barn on the college farm at Brookings, South Dakota.

§ 2. APPROPRIATION FOR HEATING PLANT.] That there is hereby appropriated out of the moneys in the state treasury not otherwise appropriated, the sum of twenty thousand dollars (\$20,000) for the erection and installation of a heating plant in the buildings of said agricultural college.

§ 3. CONTRACTS AND CONSTRUCTION.] That the erection and equipment of each and all of the buildings provided for in this act, shall be under the control and management of the regents of education of South Dakota, and such buildings and improvements shall in each case be erected after duly advertising for bids.

§ 4. DUTY OF STATE AUDITOR.] It shall be the duty of the State Auditor to draw his warrant on the State Treasurer for the several amounts provided for in this act, upon receiving properly certified and itemized vouchers from the said board of regents, and upon presentation of such warrants the State Treasurer shall pay the same.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 29.

(H. B. 274.)

APPROPRIATING MONEY FOR THE STATE PENITENTIARY.

AN ACT entitled an act appropriating money to pay for the building of an extension to the cell hall at the state penitentiary.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of the genral fund of the state, not otherwise appropriated, to pay for the building of an extension to the cell hall at the State Penitentiary the sum of twenty thousand dollars (\$20,000.)

§ 2. ERECTION UNDER SUPERVISION OF BOARD OF CHARITIES AND CORRECTIONS.] Said extension shall be erected under the supervision of the board of charities and corrections, and the state auditor shall issue warrants upon the treasurer in payment for the construction thereof upon properly certified vouchers from said board, which shall be itemized, and upon presentation of said warrants the state treasurer shall pay the same.

Approved March 12, 1903.

CHAPTER 30.

(H. B. 276.)

APPROPRIATION FOR THE SCHOOL OF DEAF MUTES.

AN ACT entitled an act appropriating money to pay for the building of an additional story and roof on the hospital building at the school for deaf mutes at Sioux Falls.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of the general fund of the state, not otherwise appropriated, to pay for the building of an additional story and roof on hospital building at the school for deaf mutes at Sioux Falls, the sum of three thousand five hundred dollars, (\$3,500).

§ 2. SUPERVISION OF ERECTION.] Said extension shall be erected under the supervision of the board of charities and corrections, and the state auditor shall issue warrants upon the treasurer in payment for the constnction thereof, upon properly certified vouchers from said board,

which shall be itemized, and upon presentation of said warrants the state treasurer shall pay the same.

Approved March 12, 1903.

CHAPTER 31.

(H. B. 275.)

APPROPRIATING MONEY FOR THE STATE PENITENTIARY.

AN ACT entitled an act appropriating money to pay for the building of a cottage for the use of the deputy warden of the State Penitentiary.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION..] That there is hereby appropriated out of the general fund of the State, not otherwise appropriated, to pay for the building of a cottage for the use of the deputy warden at the state penitentiary the sum of two thousand dollars (\$2000).

§ 2. BOARD OF CHARITIES AND CORRECTIONS TO HAVE SUPERVISION OF ERECTION.] Said cottage shall be erected under the supervision of the Board of Charities and Corrections, and the State Auditor shall issue warrants upon the state treasurer in payment for the construction thereof, upon properly certified vouchers from said board, which shall be itemized, and upon presentation of said warrants the state treasurer shall pay the same.

Approved March 12, 1903.

CHAPTER 32.

(H. B. 54.)

APPROPRIATING MONEY FOR THE NORTHERN HOSPITAL FOR THE INSANE.

AN ACT entitled an act to appropriate money for buildings for the Northern Hospital for the Insane at Redfield, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION FOR CUSTODIAL BUILDING.] That there is hereby appropriated out of the moneys in the state treasury not otherwise appropriated the sum of forty-five thousand dollars, or so much thereof as may be necessary for the erection of a custodial building, to be used to

accommodate sixty proper inmates of the said northern hospital for the insane.

§ 2. APPROPRIATION FOR CENTRAL HEATING AND LIGHT PLANT.] That there is hereby appropriated out of moneys in the state treasury not otherwise appropriated, the sum of eight thousand (\$8,000) dollars or so much thereof as may be necessary for the erection of a central heating and light plant.

§ 3. APPROPRIATION FOR FINISHING ENGINE ROOM AND LAUNDRY ADDITION.] That there is hereby appropriated out of the moneys in the state treasury not otherwise appropriated the sum of three thousand (\$3,000) dollars or so much thereof as may be necessary for the completion of the engine room and laundry addition which is now partially erected.

§ 4. APPROPRIATION FOR ONE BARN.] That there is hereby appropriated out of moneys in the state treasury not otherwise appropriated, the sum of thirteen hundred dollars (\$1,300), or so much thereof as may be necessary for the erection of a cattle barn.

§ 5. CONTRACT AND CONSTRUCTION.] That the erection of each and all of the buildings provided for in this act shall be under the control and management of the board of charities and corrections of South Dakota and shall be erected upon the grounds of the said northern hospital for the insane at Redfield, South Dakota, by contract, in each case, after duly advertising for bids, and shall be completed as speedily as possible.

§ 6: DUTY OF STATE AUDITOR.] It shall be the duty of the state auditor to draw his warrants on the state treasurer for the several amounts provided in this act, upon receiving properly certified and itemized vouchers from said board of charities and corrections, and upon presentation of such warrants the state treasurer shall pay the same.

§ 7. EMERGENCY.] Because of the over crowded condition and the urgent necessity for said buildings an emergency is hereby declared to exist and this act shall be in force from and after its passage and approval.

Approved March 12, 1903.

CHAPTER 33.

(H. B. 82.)

APPROPRIATION FOR THE NORTHERN NORMAL AND INDUSTRIAL SCHOOL.

AN ACT to appropriate money for the construction, equipment and furnishing of a dormitory and school building for the use and in connection with the Northern Normal and Industrial School.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION:] There is hereby appropriated out of any mon-

ey in the state treasury not otherwise appropriated, the sum of thirty-five thousand dollars, or so much thereof as may be necessary, for the construction, equipment and furnishing of a dormitory and school building, to be erected upon the lands donated to and occupied by the northern normal and industrial school at Aberdeen.

§ 2. REGENTS TO HAVE SUPERVISION—DUTY OF AUDITOR.] Said building shall be erected under the supervision of the board of regents and the state auditor shall issue warrants upon the treasurer in payment for the construction, equipment and furnishing thereof upon properly certified vouchers from said board which said vouchers shall be itemized and upon presentation of said warrants the state treasurer shall pay the same.

§ 3. ERECTED BY CONTRACT—WHEN COMPLETED.] Said building shall be erected by contract after receiving bids and shall be completed and ready for occupancy on or before the first day of September, 1903.

§ 4. EMERGENCY.] Whereas the attendance upon said school has far exceeded that anticipated, and with the existing facilities it is impossible to accommodate the pupils already in attendance and desiring to become pupils, an emergency exists and is hereby declared to exist, and this act shall be in force and effect immediately upon and after its passage and approval.

Approved March 6, 1903.

CHAPTER 34.

(H. B. 75.)

APPROPRIATION FOR AN ADDITIONAL BUILDING IN CONNECTION WITH THE NORMAL SCHOOL AT SPEARFISH.

AN ACT to appropriate money for the erection and equipment of an additional building in connection with the Normal school at Spearfish, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of twenty-four thousand dollars or so much thereof as may be necessary, for the erection and equipment of a building for manual training, gymnasium, library and other class rooms and offices as may be necessary upon the Normal school grounds at Spearfish, to be used in connection with such school.

§ 2. BOARD OF REGENTS TO HAVE SUPERVISION.] Said buildings shall be erected under the supervision of the board of regents and the state auditor shall issue warrants upon the state treasury in payment,

thereof upon properly certified, itemized vouchers from said board, and upon presentation of such warrants the treasurer shall pay the same.

§ 3. CONTRACT.] Said building shall be erected by contract after receiving bids and shall be ready for occupancy by the time of the opening of the fall term of said Normal School for 1904.

§ 4. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 35.

(H. B. 80.)

APPROPRIATION FOR BUILDINGS IN CONNECTION WITH THE MADISON NORMAL

AN ACT to appropriate money for the erection of the east wing and for the repairing of the old building on the grounds of the Madison state normal school, also for erecting and furnishing the east wing on the grounds of the Madison state normal school at Madison, South Dakota, for repairs on west hall, and for repointing the stone work and repainting the wood work on the present normal school building on said grounds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there be appropriated out of any moneys in the treasury not otherwise appropriated, the sum of thirty-five thousand dollars (\$35,000.00) or so much thereof as may be necessary for the erection, furnishing and equipment of the east wing of the school building on the grounds of the Madison State Normal School at Madison, South Dakota, for repairs on west hall, and for repointing the stone work and repainting the wood work on the present normal school building on said grounds.

§ 2. BOARD OF REGENTS TO HAVE CONTROL.] That the expenditure of the moneys hereby appropriated shall be under the control and management of the board of regents of education of the state of South Dakota, and that the improvements herein named shall be made upon the grounds of the said Normal School at Madison, S. D., by contract, in each case, after duly advertising for bids, and that the said east wing shall be erected of stone similar to and in conformity with the school building now on said grounds.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned

by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 36.

(H. B. 58.)

APPROPRIATING MONEY FOR THE SPRINGFIELD NORMAL SCHOOL.

AN ACT to appropriate money for the construction, equipment, heating and furnishing of a dormitory upon the State Normal School grounds at Springfield, South Dakota, to be used in connection with said Normal school.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there be and is hereby appropriated out of any moneys in the state treasury [not] otherwise appropriated the sum of twenty-four thousand dollars (\$24,000) or so much thereof as may be necessary for the construction, equipment, heating and furnishing of a dormitory upon the state normal school grounds at Springfield, South Dakota.

§ 2. BOARD OF REGENTS TO HAVE SUPERVISION.] That the construction, equipment, heating and furnishing of said building shall be under the supervision of the regents of education, to be used in connection with said Normal School as a dormitory, and for such other purposes as the regents of education may deem proper, and shall be ready for occupancy on or before the first day of September, 1904.

§ 3. DUTY OF STATE AUDITOR.] It shall be the duty of the state auditor to draw his warrants on the state treasurer for the amount provided for in this act, upon receiving properly certified vouchers from said regents of education, and upon presentation of said warrants the state treasurer shall pay the same.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 37.

(H. B. 43.)

APPROPRIATING MONEY FOR AN ADDITIONAL BUILDING FOR THE STATE BLIND ASYLUM.

AN ACT to appropriate money for the erection and equipment of a building to be used as an administration building in connection with the State Blind Asylum at Gary, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of ten thousand dollars (\$10,000) or so much thereof as may be necessary, for the erection and equipment of a building for administration purposes upon the grounds of the state blind asylum at Gary, South Dakota, to be used in connection with said institution.

§ 2. BOARD OF CHARITIES AND CORRECTIONS TO HAVE SUPERVISION—DUTY OF AUDITOR.] Said building shall be erected under the supervision of the board of charities and corrections, and the state auditor shall issue warrants upon the treasurer in payment for the construction thereof, upon properly certified itemized vouchers from said board, and upon presentation of such warrants the treasurer shall pay the same.

§ 3. ERECTED BY CONTRACT—COMPLETED WHEN.] Said building shall be erected by contract after receiving bids, and shall be ready for occupancy by the first of September, 1904.

NOTE BY THE SECRETARY OF STATE: The foregoing act having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state, with his objections within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 38.

(S. B. 100.)

APPROPRIATION FOR NATIONAL GUARD.

AN ACT to appropriate money for the maintenance of the South Dakota National Guard.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated, out of

any money in the treasury not otherwise appropriated, for the maintenance of the South Dakota National Guard, from the first day of May, 1903, till the thirtieth day of April 1904, thirty-five thousand dollars (\$35,000.00), and for the year commencing the first day of May, 1904, and ending the thirtieth day of April, 1905, the sum of thirty-five thousand dollars (\$35,000.00).

§ 2. EMERGENCY.] Whereas an emergency is hereby declared to exist this act shall be in force and effect on and after its passage and approval.

Approved March 6th, 1903.

CHAPTER 39.

(S. B. 72.)

APPROPRIATING MONEY TO PAY WOLF BOUNTY.

AN ACT providing for an appropriation of money to pay deficiency in state wolf bounty under chapter 136 of session laws of 1899 for the fiscal years from February 8, 1899 to July 1, 1901.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the state not otherwise appropriated, to pay the deficiency in state wolf bounty created by chapter 136 of the session laws of 1889, [1899] for county treasurers' certificates filed in the office of the state auditor between the 8th day of February, 1899, and the first day of July, 1901, which have not heretofore been paid, the sum of thirty thousand (\$30,000) dollars or so much thereof as shall be necessary to pay said certificates.

Provided, that any portion of the above mentioned thirty thousand dollars which may not be used shall revert to the general fund of the state treasury.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 40.

(H. B. 145.)

APPROPRIATING MONEY FOR STATE BOARD OF AGRICULTURE.

AN ACT to appropriate money for the payment of premiums of the state board of agriculture in holding state fairs.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the State not otherwise appropriated the sum of three thousand dollars for the year 1903, and the sum of three thousand dollars for the year 1904, to be used only for the payment of premiums after all other receipts of the State Board of Agriculture are exhausted and any surplus remaining and on hand after full payment of the premiums shall be converted into the general fund of the state treasury; *Provided*, that any and all payments shall be made by the state treasurer upon warrants of the state auditor, which warrants shall be issued upon the itemized and duly verified vouchers and statements only which shall be first approved by the State Board of Agriculture. *Provided, further*, that this appropriation is made and shall remain upon the express condition that no intoxicating liquors shall be sold upon and no gambling shall be allowed upon the fair grounds during the continuance of the state fairs; and no warrants shall be drawn under this act until the State Board of Agriculture shall furnish the State Auditor with satisfactory proof that no intoxicating liquors were sold upon and no gambling was allowed upon the fair grounds during the continuance of the State fair as herein provided.

§ 2. EMERGENCY.] It being necessary for the State Board of Agriculture to make immediate preparations for the coming fair, an emergency is hereby declared to exist, and therefore this act shall be in effect from and after its passage and approval.

Approved Feb. 28, 1903.

CHAPTER 41.

(S. B. 152.)

APPROPRIATING MONEY FOR THE SOLDIERS' HOME.

AN ACT to appropriate money for the erection of four cottages in connection with the soldiers' home at Hot Springs, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of three thousand dollars (\$3,000) or so much thereof as may be necessary for the erection of four cottages upon the grounds of the Soldiers' Home, at Hot Springs, South Dakota, to be used in connection with the said Soldiers' Home.

§ 2. ERECTION OF COTTAGES UNDER SUPERVISION OF COMMISSIONERS—DUTIES OF STATE AUDITOR AND TREASURER.] Said cottages shall be erected under the supervision of the Board of Commissioners of the Soldiers' Home, and the state auditor shall issue warrants upon the state treasurer in payment for the construction thereof upon properly certified, itemized vouchers from said board and upon presentation of said warrants the state treasurer shall pay the same.

§ 3. TO BE ERECTED BY CONTRACT.] Said buildings shall be erected by contract after receiving bids.

§ 4. EMERGENCY.] An emergency is hereby declared to exist, and this act shall be in force and effect after its passage and approval.

Approved February 24, 1903.

CHAPTER 42.

(S. B. 163.)

APPROPRIATING MONEY TO PAY EXPENSES INCURRED IN CRIMINAL PROSECUTIONS IN UNORGANIZED COUNTIES.

AN ACT to appropriate money to pay expenses incurred in criminal prosecutions arising in unorganized counties attached to Stanley county and remaining unpaid for want of appropriation.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of

the general fund of the state not otherwise appropriated, the sum of sixteen hundred twenty-three dollars and fifty cents (\$1623.50), or so much thereof as may be necessary to pay and defray the expense incurred in criminal prosecutions arising in unorganized counties attached to Stanley county, in the State of South Dakota.

§ 2. DUTY OF STATE AUDITOR.] The state auditor shall issue warrants upon this fund so appropriated upon properly certified itemized vouchers being presented to him by the state's attorney of Stanley county, it being the intent of this act to invest the state auditor with full jurisdiction to hear and determine all questions relative to the justice, legality and amount of charges or claims against this fund so appropriated, with power to allow or disallow any or all such claims.

§ 3. BALANCE OF MONEY TO BE RETURNED.] All money remaining on hand at the close of the fiscal year 1903, under the provisions of this act, shall revert to the state general fund.

§ 4. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved February 27, 1903.

CHAPTER 43.

(H. B. 8.)

RELATING TO THE LOUISIANA PURCHASE EXPOSITION.

AN ACT in relation to the Louisiana Purchase Exposition to be held at St. Louis in 1904, and to provide for the collection, arrangement and display of materials showing the products and resources of the State of South Dakota, at such exposition, and making an appropriation therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. COMMISSION TO BE APPOINTED.] That for the purpose of exhibiting the resources, products and the industrial, commercial and social progress and the general development of the State of South Dakota, at the Louisiana Purchase Exposition to be held in the city of St. Louis, in 1904, a commission is hereby constituted to be designated the "Louisiana Purchase Exposition Commission of South Dakota," which shall consist of three suitable persons to be appointed by the Governor, who shall be selected entirely with regard to their familiarity with the resources, arts and products of the state, business experience and executive skill and all of whom shall be residents of the state.

§ 2. GOVERNOR TO APPOINT—DUTIES AND POWERS OF COMMISSION.] The members of said commission shall be appointed by the Governor and

FOLIO—4.

shall meet at such time and place as the governor may designate, and organize by the election of a president, vice president, secretary and the secretary shall be a salaried official and shall be chosen by members of said commission. Two members of said commission shall constitute a quorum for the transaction of business. The commission shall have the power to make rules and regulations for its own government; *provided*, such rules and regulations shall not conflict with the regulations adopted under any act of congress for the government of said exposition or with any law of this state. Any member of said commission may be removed at any time by the governor for cause; and any vacancy which shall occur in the membership shall be filled by the governor for the balance of the term. The members of said commission shall hold their office until the first day of January, 1905.

§ 3. FURTHER DUTIES AND POWERS.] Said commission is authorized and directed to assume and exercise all such executive powers as may be necessary to secure a complete and creditable display of the resources and interests of the state at the International Exposition to be held in St. Louis in 1904, and they shall have the entire charge of the solicitation, collection, transportation, arrangement and exhibition of the subjects sent under the authority of the state to said exposition, and of such objects sent by individual citizens of the state as may be by them placed in their charge; and said commission shall have charge of the interests of the state and its citizens, and the exhibition at such exposition of the natural products of the state so as to represent as far as possible and to the best advantage the natural and artificial resources of the state; its rocks, mines and quarries; its prairies, hills and forests, its fields, gardens and orchards; its grains, grasses, fruits and vegetables; its trees, shrubs and flowers; its soil, its productions, quality and capacity; and each and every other thing that can be secured and preserved and exhibited, to the end that a complete, thorough and fair exhibition may be had of the actual and possible productions of the state and of its commercial and social development, and its educational, religious and charitable institutions.

§ 4 Said commission shall have power and may erect a building to be decorated and known as a corn palace of such size, form and manner of construction as shall in their judgment best answer the purposes of the people of South Dakota, at an expenditure not exceeding seven thousand dollars (\$7,500.00).

§ 5. MAY PUBLISH A BRIEF HISTORY OF STATE—WHAT TO CONTAIN.] said commission may, if it deem it advisable, prepare and have printed for distribution at the exposition a brief history of the state, showing its physical features, its early settlement, its climate, its means of transportation, growth in population and wealth, the character and habits of the people, and any other matters which, in its judgment, will aid in properly setting forth to visitors the birth, progress and present condition of the state.

§ 6. SHALL REPORT TO THE GOVERNOR.] Said commission shall make a report of its proceedings and expenditures from time to time, to

the governor, and at any time, upon his written request, to be transmitted to the legislature, together with such suggestions as it may deem important regarding provisions for a complete and creditable representation of the state at said exposition.

§ 7. SALARY OF COMMISSIONERS.] Each member of the commission appointed under this act, shall be entitled to receive for his salary and expenses the sum of five dollars per day for the time actually employed. The amount paid any commissioner shall not exceed one thousand dollars (\$1000.00.)

§ 8. TREASURER TO GIVE BOND.] The treasurer of said commission shall give a bond to the state for the proper performance of his duties, in the sum of ten thousand dollars, with sufficient sureties, which shall be approved by the auditor of state and such bond shall remain on file in the office of the auditor of state. If the surety on said bond is a surety company the commission shall be entitled to charge the cost thereof as a part of their expenses.

The Commission herein provided for in order that the State may secure the benefit of the mineral exhibit to be made under the direction of the Black Hills Mining Men's Association shall co-operate with said association to that end. *Provided*, that in case any of the funds of the state are used to carry into effect this provision it shall be with the condition that such mineral display, other than private exhibits, shall be the property of the state, and be placed on permanent display in the state capitol building.

§ 9. APPROPRIATION.] To carry out the provisions of this act, there is hereby appropriated out of any money in the treasury not otherwise appropriated the sum of thirty-five thousand dollars. The auditor of state is directed to draw his warrant on the state treasurer to pay said sum from time to time on the requisition of said commission signed by its president and attested by its secretary with the approval of the governor accompanied by estimates of the expenses, to the payment of which the money so drawn is to be applied. The treasurer of the commission shall only pay out the funds so received by him upon the order of the president of the commission, attested by the secretary, accompanied by a verified itemized voucher showing the purpose for which the money is used.

§ 10. ARTICLES TO BE RETURNED TO PARTIES ENTITLED TO SAME.] At the termination of the exposition all articles placed in charge of said commission by either persons or institution shall be returned to the parties entitled to the same, but the proceeds of all property sold which was built, made or acquired by the state or the commission by reason of this appropriation shall be turned into the state treasury and constitute a part of the general fund, and said commission provided for in this act is hereby prohibited from creating any liability against the state in excess of the sum appropriated herein.

Approved March 11, 1903.

CHAPTER 44.

(H. B. 131.)

APPROPRIATING MONEY TO REIMBURSE MARY E. KIDD.

AN ACT to reimburse Mary E. Kidd for expenses incurred while serving as a member of the woman's investigating board of the state of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the State of South Dakota the sum of thirty-six dollars seventy cents to reimburse Mary E. Kidd for expenses incurred in the year 1901, while in the discharge of her duties as a member of the Women's Investigating Board of the State of South Dakota.

§ 2. DUTY OF AUDITOR.] It is hereby made the duty of the State Auditor to issue a warrant for the said amount upon presentation of a receipt therefor signed by the said Mary E. Kidd.

§ 3. EMERGENCY.] Whereas, there are no funds available for the payment of the said expenses, an emergency is hereby declared to exist and this bill shall take effect and be in force from and after its passage and approval.

Approved February 19, 1903.

CHAPTER 45.

(S. B. 74.)

APPROPRIATING MONEY FOR PROCURING A SILVER SERVICE FOR THE BATTLESHIP "SOUTH DAKOTA."

AN ACT to provide for a proper recognition of the battleship "South Dakota."

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the State, not otherwise appropriated, the sum of five thousand dollars, or so much thereof as may be necessary, for the purpose of procuring a silver service or other suitable decoration, for the battleship, "South Dakota," the same to be expended under the direction of the Governor and Secretary of State.

§ 2. VOUCHERS MUST BE FILED—DUTY OF AUDITOR AND TREASURER.] Vouchers for all disbursements of the funds appropriated by this Act shall be taken by the officers making such disbursements and the same shall be filed with the Auditor of the State and a certified and itemized statement of the expenditures under this act shall also be filed with the auditor, who shall thereupon issue his warrants for the amounts of such expenditure and upon presentation of such warrants to the State Treasurer, the same shall be paid.

§ 3. TAKE EFFECT WHEN.] This act shall take effect from and after its passage and approval.

Approved March 2, 1903.

CHAPTER 46.

(H. B. 195.)

APPROPRIATION FOR EMMA KEMMERER.

AN ACT to appropriate money to pay a judgment in favor of Emma Kemmer, and against the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the State not otherwise appropriated, the sum of ninety dollars and thirty cents for the purpose of paying the judgment that was obtained in the Circuit Court for Faulk County and by the Supreme Court in the case of the State of South Dakota against Emma Kemmerer.

§ 2. DUTY OF AUDITOR.] The State auditor shall draw a warrant to pay such judgment upon the presentation to him of a certified copy of the satisfaction of said judgment in the office of the clerk of the circuit court in and for Faulk county.

§ 3. EMERGENCY.] Whereas an emergency exists this act shall be in force and effect from and after its passage and approval.

Approved March 4, 1903.

CHAPTER 47.

(H. B. 147.)

APPROPRIATING MONEY FOR PUBLIC PRINTING.

AN ACT to appropriate money for printing and binding reports of state officers and boards for the fiscal years of 1902 and 1903, printing and binding daily and permanent journals, house and senate bills for the Eighth legislative assembly of the State of South Dakota, and for such other printing as may be ordered by the Eighth legislative assembly of the State of South Dakota, printing and binding session laws binding public documents and expense of distributing such documents and supreme court reports for the period ending June 30, 1903.

Be it Enacted by the Legislature of the State of South Dakota

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the State of South Dakota the sum of thirty-five thousand five hundred dollars or so much thereof as may be necessary for the purpose of printing and binding the reports of state officers and boards for the fiscal years of 1902 and 1903, printing and binding daily and permanent journals, house and senate bills for the Eighth Legislative Assembly of the State of South Dakota, and for such other printing as may be ordered by the said Eighth Legislative Assembly, printing and binding session laws, binding public documents.

§ 2. APPROPRIATION.] There is also appropriated out of the general fund of the State of South Dakota for the fiscal years 1902 and 1903, the sum of \$600 for the expenses of distributing session laws, legislative journals, public documents, supreme court reports and the revised code of 1903.

§ 3. DUTY OF AUDITOR.] The state auditor shall draw warrants to pay such expenditures as may be certified to be correct by the commissioner of printing due on any contract with this state for any printing and binding herein enumerated and for any necessary expense incurred in the distribution of supreme court and official reports, session laws and legislative journals, public documents and any other publications ordered by the Eighth Session of the Legislature of the State of South Dakota.

§ 4 EMERGENCY.] Whereas, an emergency exists, this act shall be in force and effect from and after its passage and approval.

Approved February 21, 1903.

CHAPTER 48.

(S. B. 22.)

APPROPRIATING MONEY FOR PAYING EXPENSES OF SETTING ASIDE SCHOOL LAND CONTRACTS.

AN ACT to appropriate money for the purpose of paying the expenses of setting aside school land contracts for non-payment of principal or interest as provided in section 26, chapter 136, laws 1890.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any moneys in the general fund of the State of South Dakota, not otherwise appropriated, the sum of three thousand dollars (\$3,000) or so much thereof as may be necessary to pay the expenses of setting aside school land contracts by actions in the circuit courts of the state as provided in Section 26, Chapter 136, of the laws of 1890, for non-payment of the purchase money, or interest or the violation of any of the provisions of said contracts.

§ 2. DUTY OF STATE AUDITOR.] It shall be the duty of the state auditor to draw warrants on the fund so appropriated upon itemized vouchers sworn to by the parties entitled to the same, certified by the state's attorney ordering such expenses, and approved by the commissioner of school and public lands; and the state treasurer is authorized to pay the same.

§ 3. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved January 22nd, 1903.

CHAPTER 49.

(S. B. 64.)

DEFICIENCY APPROPRIATION FOR THE NORTHERN NORMAL AND INDUSTRIAL SCHOOL.

AN ACT to appropriate money for deficiency in the fund for the payment of teachers' salaries and in the construction, furnishing, fuel, light and miscellaneous funds for the northern normal and industrial school.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of

any money in the treasury of the State of South Dakota, not otherwise appropriated the sum of forty-four hundred ninety dollars and twenty eight cents, or so much thereof as may be necessary, for the payment of teachers, salaries and for deficiencies in the construction, furnishing, fuel, light and miscellaneous funds for the northern normal and industrial school during the remainder of the fiscal year ending June 30, 1903, to be expended as may be lawfully directed by the board of regents of education of the State of South Dakota.

§ 2. EMERGENCY.] *Whereas*, the salary, fuel and other funds are exhausted and the institution can not be kept open for the remainder of the year without further funds as herein appropriated, therefore, an emergency exists and is hereby declared to exist and this act shall take effect and be in force from and after its passage, and approval.

Approved February 11, 1903.

CHAPTER 50.

(S. B. 83.)

DEFICIENCY APPROPRIATION FOR THE STATE UNIVERSITY.

AN ACT to appropriate money for deficiencies in the salary fund and fuel and light fund of the state university.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the state not otherwise appropriated, the sum of five thousand dollars (\$5,000) or so much thereof as may be needed, for fuel and light for the University of South Dakota, during the remainder of the fiscal year ending June 30, 1903, and the sum of three thousand dollars (\$3,000) or so much thereof as may be needed, for salaries for the University of South Dakota, during the remainder of the fiscal year ending June 30, 1903.

§ 2. DUTY OF THE STATE AUDITOR.] The State Auditor shall draw his warrants for such amounts not to exceed the above sums, respectively, for the purposes stated as may be presented to him upon itemized vouchers, properly approved by the regents of education, and sworn to by the parties entitled to receive the same.

§ 3. EMERGENCY.] *Whereas*, the State University fuel and light fund is exhausted, and the institution cannot be kept open through the

remainder of the year without further funds for fuel and light, and likewise the salary fund of the state university will be exhausted before June 30, 1903, in payment of the salaries of the present teaching force, and there will be a deficit of three thousand dollars on June 30, 1903, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved February 18, 1903.

CHAPTER 51.

(H. B. 65.)

DEFICIENCY APPROPRIATION FOR THE GOVERNOR'S OFFICE.

AN ACT to appropriate money for the payment of the expenses incurred by the executive office in preparing and forwarding to the members of the present legislature copies of the reports of public officers and boards, and for salary for stenographer for executive office for balance of the fiscal year.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the payment of the expenses incurred by the executive office in preparing and forwarding to the members of the present legislature copies of the reports of public officers and boards of this state and for salary for stenographer for the executive office for balance of the fiscal year the sum of four hundred and twenty-four dollars and eighty-three cents (\$484.83).

§ 2. EMERGENCY.] There being no appropriation available for the purposes indicated in the preceding section, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved February 16, 1903.

CHAPTER 52.

(S. B. 109.)

DEFICIENCY APPROPRIATION FOR CONVEYING CONVICTS.

AN ACT to appropriate money to pay deficiency claims incurred in the conveyance of convicts to the penitentiary.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated, out of the

general fund of the treasury, the sum of twelve hundred dollars \$(1,200), or so much thereof as may be necessary to pay expenses of sheriffs incurred in conveying convicts to the penitentiary prior to July 1, 1903, for which appropriations heretofore made have been insufficient.

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved February 18, 1903.

CHAPTER 53.

(S. B. 101.)

DEFICIENCY APPROPRIATION FOR THE BURIAL OF DECEASED SOLDIERS.

AN ACT to appropriate money to pay deficiency claims for the burial of deceased soldiers.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the treasury the sum of three hundred dollars (\$300) or so much thereof as may be necessary to pay the expenses incurred in the burial of deceased soldiers prior to July 1, 1902, for which preceding appropriations have been insufficient.

§ 2. EMERGENCY.] Whereas, an emergency is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved February 18, 1903.

CHAPTER 54.

(S. B. 204.)

DEFICIENCY APPROPRIATION FOR THE SOLDIERS HOME.

AN ACT to appropriate money for deficiency in the fund for the payment of fuel for the State Soldiers' Home.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any money in the treasury of the State of South Dakota not otherwise appro-

appropriated the sum of five hundred dollars (\$500), or so much thereof as may be necessary, for the payment of and for deficiencies in the fuel fund for the state soldiers' home during the remainder of the fiscal year ending June 30, 1903, to be expended as may be lawfully directed by the board of commissioners of the soldiers' home of the State of South Dakota.

§ 2. EMERGENCY.] *Whereas*, the fuel fund is exhausted and the institution cannot be kept open for the remainder of the year without further funds as herein appropriated therefor an emergency exists, and is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1903.

CHAPTER 55.

(S. B. 52.)

AN ACT to pay Adjutant General S. J. Conklin a balance due him on his salary for the period from March 9th, 1901, to June 30th, 1901.

DEFICIENCY APPROPRIATION TO PAY ADJUTANT GENERAL S. J. CONKLIN.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any money that is in the treasury, not otherwise appropriated, the sum of two hundred nineteen and 13-100 dollars to pay S. J. Conklin money due him on his salary as adjutant general of the State of South Dakota, from March 9, 1901, to June 30, 1901.

§ 2. EMERGENCY.] *Whereas*, an emergency is declared to exist this act shall take effect on and after the date of its passage and approval.

Approved February 25, 1903.

CHAPTER 56.

(S. B. 226.)

APPROPRIATION FOR SENATE EMPLOYEES.

AN ACT providing for an appropriation of money to pay deficiency in the per diem of clerks and employes of the senate.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any money in the treasury not otherwise appropriated, the sum of twelve hundred dollars (\$1,200) or so much thereof as may be necessary for de-

ficiency in the per diem of employes fund of the senate.

§ 2. EMERGENCY.] *Whereas*, there was not adequate appropriation made for said fund, therefore an emergency is hereby declared to exist and this act shall be in force from and after its passage and approval.

Approved March 6, 1903.

CHAPTER 57.

(H. B. 138.)

REIMBURSING SOL STAR.

AN ACT for the reimbursement of Sol Star.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there be, and is hereby appropriated out of the moneys in the State Treasury, not otherwise appropriated, the sum of ninety-eight dollars and fifty-five cents (\$98.55), to reimburse Sol Star, Trustee, for constructing sidewalks over the property of the State of South Dakota, and across the lots and lands lying in the city of Deadwood and better described as the Taylor property.

§ 2. DUTY OF AUDITOR.] That said money be paid upon presentation of a voucher to the State Auditor, and the State Treasurer shall pay the same upon presentation of such voucher, under surrender of the tax sale certificate.

Approved March 2, 1903.

CHAPTER 58.

(S. B. 161.)

DEFICIENCY APPROPRIATION FOR PUBLIC EXAMINER.

AN ACT to appropriate money for deficiency in expense fund of the public examiner.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general funds of the state, not otherwise appropriated, the sum of four hundred dollars (\$400) for expenses for the office of public examiner, for the period ending June 30th 1903, the same to be disbursed on warrants thereon to be drawn by the State Auditor, as in the case of expenses of other state officers.

§ 2. EMERGENCY.] Whereas the appropriation for the expense of the office of public examiner made by the Legislature in 1901 was insufficient to fulfill the requirements of said office until July 1903, an emergency is hereby declared to exist, and this act shall be in force from and after its approval.

Approved March 5, 1903.

CHAPTER 59.

(H. B. 146.)

DEFICIENCY APPROPRIATION FOR PUBLISHING PROPOSED AMENDMENTS TO THE CONSTITUTION AND OTHER DEFICIENCIES.

AN ACT to appropriate money to pay deficiencies for publishing proposed amendments to the constitution of the State of South Dakota, for publishing notice of proposals for bids for printing of the third class for the year 1901, for legislative supplies, files and printing for the eighth legislative assembly of the State of South Dakota, for deficiency legislative printing for the year 1901, for deficiency in printing of the third class for the year 1901, and for election supplies for the year 1901, legislative supplies and law books for code commission.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund of the State of South Dakota, not otherwise appropriated, the following sums of money to pay the deficiencies in printing and publishing proposed amendments to the constitution of the State of South Dakota, for publishing notices of proposals for bids for printing of the third class for the year 1901, for legislative supplies, files and printing for the eighth legislative assembly of the State of South Dakota, for deficiency legislative printing for the year 1901, for deficiency in printing of the third class for the year 1901, and for election supplies for the year 1901, legislative supplies and law books for the code commission, the several sums herein enumerated, to-wit:

For publishing proposed amendments to the Constitution:

South Dakota Mail	\$31.25
The Prairie Picayune	31.25
Custer Chronicle	31.25
Sturgis Record	31.25
Hutchinson Herald	31.25
Lake Preston Times	31.25
Reporter and Farmer	31.25
Times-Record	31.25
The True Republican	31.25

McPherson County Herald.	31.25
Moody County Enterprise.	31.25
Madison Daily Sentinel.	31.25
Whitewood Plain Dealer.	31.25
Clark Pilot-Review.	31.25
Yankton Gazette.	31.25
Lead Daily Call.	47.40
Springfield Times.	47.40
Watertown Herald.	47.40
State Register.	47.40
Mitchell Capital.	47.40
Aberdeen News.	47.40
Argus-Leader.	47.40
Journal Observer.	47.40
Hot Springs Star.	47.40
Deadwood Daily Pioneer-Times.	47.40
Brookings Weekly Register.	47.40
Northwest Blade.	47.40
Armour Chronicle-Tribune.	47.40
Syd Dakota Ekko.	47.40
Dakota Huronite.	33.85
Brookings County Press.	33.85
Union County Courier.	33.85
Onida Watchman.	33.85
Dakota Freie Presse.	33.85
Republican Record.	33.85
Belle Fourche Bee.	33.85
Northville Journal.	33.85
Rapid City Daily Journal.	33.85
Spirit of Dakota.	33.85

For publishing proposals for bids for third class printing for the year 1901:

Deadwood Pioneer Times.	8.80
State Publishing Company—	
Legislative Election blanks, bills and journal files and other printing.	432.50
Legislative supplies and records.	171.30
Deficiency legislative printing, seventh session.	966.53
Printing third class, 1901.	1254.45
Election supplies 1901, legislative supplies and law books for Code commission.	636.41
Brown & Saenger, legislative supplies.	381.05
Will A. Beach, legislative supplies.	386.75
L. B. Wadleigh & Son, legislative supplies.	112.50
S. S. Ruble, legislative supplies.	62.40
For additional supplies for the legislature.	300.00
For compensation of clerk taking care of legislative supply	

room, sixty days 120.00

§ 2. DUTY OF STATE AUDITOR.] The state auditor shall issue warrants for the aforesaid sums of money hereby appropriated, or any part thereof, upon receipt of itemized vouchers filed in his office and duly approved, and the state treasurer shall pay the same when presented.

§ 3. EMERGENCY.] Whereas, there are no available funds with which to pay such expenses, this act shall take effect and be in force from and after its passage and approval.

Approved February 20, 1903.

CHAPTER 60.

(H. B. 263.)

DEFICIENCY APPROPRIATION.

AN ACT to appropriate money to supply the deficiency in the maintenance fund of the state normal school at Spearfish, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated the sum of eight hundred dollars (\$800) out of any money now in the hands of the state treasurer, not otherwise appropriated, to supply the deficiency in the maintenance fund of the State Normal School at Spearfish, South Dakota, said fund having been exhausted and eight hundred dollars (\$800) is needed for the purchase of fuel.

§ 2. DUTY OF AUDITOR.] The state auditor shall issue warrants on this sum on properly certified vouchers and proofs and the state treasurer shall pay the same.

§ 3. An emergency is hereby declared to exist and this act shall take effect from and after its passage and approval.

Approved March 12, 1903.

CHAPTER 61.

(H. B. 156.)

DEFICIENCY APPROPRIATION FOR THE SECRETARY OF THE STATE HISTORICAL SOCIETY.

AN ACT to provide compensation for the secretary of the state historical society from February 1st, 1902, to July 1st, 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the treasury not otherwise appropriated the sum of eight hundred fifty dollars to pay the secretary of the State Historical Society from February 1st, 1902, to July 1st, 1903.

§ 2. EMERGENCY.] The auditor shall draw his warrant for the payment of the money herein appropriated upon the duly certified vouchers of the state Historical Society.

§ 3. EMERGENCY.] There being no appropriation for the payment of the secretary of said society, and that officer having served without compensation since said first day of February, 1902, an emergency is hereby declared to exist and this act shall take effect immediately after passage and approval.

Approved February 25, 1903.

CHAPTER 62.

(H. B. 184.)

DEFICIENCY APPROPRIATION FOR JUDGE JULIAN BENNETT.

AN ACT to pay judgment, costs and deficiencies in the salary of Judge Julian Bennett of the Third judicial circuit in the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any money in the State treasury of the State of South Dakota, not otherwise appropriated, the following sums of money to pay judgment, costs, deficiencies in the salary of Judge Julian Bennett of the Third Judicial Circuit, State of South Dakota: Salary from February 1, 1901, to January 7, 1902, the sum of four hundred fifty-eight dollars (\$458.00); amount of judgment, the sum of thirty-seven dollars ten cents (\$37.10); salary from January 8, 1902, to June 30, 1902, the sum of two hundred thirty-eight

dollars thirty-five cents, (\$238.35); salary from July 1, 1902, to June 30, 1903, the sum of five hundred dollars, (\$500.00); in all the sum of twelve hundred thirty-three dollars, forty-five cents, (\$1,233.45).

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval. Approved February 28, 1903.

ARTESIAN WELLS.

CHAPTER 63.

(S. B. 105.)

TOWNSHIP ARTESIAN WELLS.

AN ACT to amend section 2695 of the revised political code of 1903, being section 16, of chapter 80, of the laws of 1891, as amended in and by section 11 of chapter 103 of the laws of 1895.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2695 of the Revised Political Code of 1903, being Section 16 of Chapter 80, of the Laws of 1891, as amended in and by Section 11 of Chapter 103, of the Laws of 1895, be and the same is hereby amended to read as follows:

Section 2695. Before any contract for the sinking of an artesian well shall be let, the person upon whose land the said well is located shall make to the township in which the well is located, a good and sufficient deed of not less than one acre of land upon which said well is located, with the right of way from the highway to the said well, and the right to lay pipe or make ditches from said well across the land upon which said well is located to the land of the adjoining owners. *Provided*, that in case any such well shall be located in any town or village, whether incorporated or not, such lots or blocks less than one acre of land as may be necessary may be conveyed to such town for the purposes of such well. *Provided, further* that in case the person or persons upon whose lands the said well is located shall refuse to make a good and sufficient deed to said township for such an amount thereof as shall be necessary for the purposes of said well, or whenever for any reason, the title of said township to land previously purchased for artesian well purposes shall fail, or whenever by mistake or otherwise, a township shall have constructed an artesian well upon land of another, either prior or subsequent to the passage of this act, without having first obtained title to the land upon which the same is constructed, and the person or persons upon whose lands the said well is located and

constructed shall refuse to convey such an amount of said land to said township as shall be necessary for the use and operation of said well for such value as the township supervisors shall believe to be the reasonable value of said land, exclusive of the value of the well itself, then, and in either of said events, so much land as is necessary for the proper use, operation and construction of said well may be taken by said township, and it shall be the duty of said township to file a petition in the circuit court of the county in which the township, and the land to be taken, is situated, praying that such amount of land as may be necessary for said artesian well purposes may be taken by said township for said purposes, and that a just compensation therefor may be ascertained by a jury. Such petition shall name the township desiring to take such property for public use as plaintiff, and the person or persons owning such property as defendant or defendants. It shall contain a description of the property to be taken, and the purpose for which the same is to be so taken shall be clearly set forth in the petition. Such petition shall be verified in the manner provided by law for the verification of complaints in the circuit court, and the affidavit of verification shall contain the further statement that the proceeding is in good faith and for the purposes specified in the petition.

If any person or corporation who are proper parties defendant to such proceeding, or any property effected thereby shall have been omitted from said petition or notice, the plaintiff may file amendments to the same, which amendments from the filing thereof shall have the same effect as though contained in said petition or notice. At any time after the filing of petition the plaintiff may issue a summons to the defendant or defendants which shall be entitled in the action or proceeding, and state the time and place of filing the petition, the nature of the proceeding, and contain a notice to the effect that if the defendant or defendants, do not appear in said proceeding within twenty days from the service thereof, exclusive of the day of service, the plaintiff will apply to the court for an order to empanel a jury and ascertain the just compensation for the property proposed to be taken in such proceeding. If no appearance be made in said proceeding by the defendant or defendants, within the time specified in the summons, the plaintiff upon affidavit of the claimant may apply to the court for an order directing the clerk of the court to draw and summon eighteen jurors to attend at the court house, or place of holding the circuit court of the county to be specified in such order. Said jurors shall be drawn and summoned in the same manner as jurors are drawn and summoned for the regular or special term of the circuit court. If any of the defendants shall have appeared in such proceeding the plaintiff shall give such defendants three days' notice of the time and place where application shall be made to the court for the order to draw and summon the jurors. At the time and place specified in the order of the court hereinbefore mentioned, a special term of the court shall be held, at which the proceeding in empaneling a jury, trial, and rendering of the verdict or verdicts, shall be conducted in the same manner as trial of actions in the circuit court. No other pleadings shall be necessary in such proceeding except the petition of the plaintiff and such as may become necessary to enable the court to de-

termine conflicting claims of the defendants to the compensation awarded by the verdict of the jury, or some part thereof. Upon the demand of any party to the proceeding, if the court shall deem it necessary, the jury may view the premises under the rules of law for viewing by a jury. The only issue or question which shall be tried by the jury upon the petition shall be the question of compensation to be paid for the property so taken, and shall in all cases be limited to the value of the land itself and exclusive of the value of any well previously constructed upon said land by said township, but in case there shall be adverse claimants for such compensation for any part of said property the court may require such adverse claimants to interplead, so as to fully determine the right and interests in such compensation. Upon return of the verdict the court shall order the same to be recorded, and shall enter such judgment thereon as the nature of the case may require, and upon the payment or deposit of the amount of damages assessed by the jury, with the clerk of said court for the benefit of said defendant or defendants, said plaintiff may proceed to occupy said lands and to erect and construct an artesian well upon said land, and to use the same in such manner as may be necessary for the purposes of said artesian well. The right of occupancy only shall be vested in said plaintiff. Such condemnation of said lands and said right of occupancy shall only extend to so much of said land as is necessary for the accommodation of said artesian well, and for the convenient operation thereof, together with necessary grounds and free access thereto from the nearest public thoroughfare.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act, are hereby repealed.

§ 3. EMERGENCY.] There being no adequate law on this subject an emergency is hereby declared to exist and this act shall be in force from and after its passage and approval.

Approved February 28, 1903.

CHAPTER 64.

(S. B. 69.)

RELATING TO ARTESIAN WELLS.

AN ACT extending the provisions of law now in force relating to artesian wells in civil townships to cities of the State so far as the same are applicable thereto.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PROVISIONS OF LAW EXTENDED TO CITIES.] The provisions of law now in force relating to the location, manner of construction and use of artesian wells in civil townships are hereby extended to the cities of this State, so far as the same are applicable.

§ 2. REPEAL.] All acts and parts of acts in conflict are hereby repealed.

§ 3. EMERGENCY.] There being no law governing the location and use of artesian wells in cities of this state, an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 4, 1903.

ASSESSMENT AND TAXATION.

CHAPTER 65.

(H. B. 109.)

Chap 65
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Chap 65

BOARDS OF EQUALIZATION.

AN ACT entitled an act to amend section 2110 of the revised political code of 1903, relating to the board of equalization.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 2110 of the Revised Political Code of 1903, be and the same is hereby amended so as to read as follows:

Section 2110. It shall be the duty of said board to examine and compare the returns of the assessment of the property of the several counties of the state, and proceed to equalize and to assess if necessary the same so that the taxable property of the several counties shall be assessed at its proportionate value, but said board shall not increase the aggregate assessed valuation in this state as equalized by the boards of county commissioners by more than one hundred million dollars in addition to their assessment of corporate properties as hereinafter provided. The board may adjourn from day to day and may employ such clerical assistance as may be deemed necessary to facilitate its labors. The state auditor shall issue warrants upon the state treasurer for all necessary expenses of said board on presentation of proper vouchers therefor approved by the governor.

§ 2. DUTY OF EQUALIZATION BOARDS.] Any board of assessment and of equalization of state, county, city or township shall have power, and is hereby required to equalize and to assess if necessary the property of any individual, association or corporation so that it shall be assessed as required by law.

Approved March 4, 1903.

CHAPTER 66.

(H. B. 85.)

Amended 1915

RELATING TO ASSESSMENTS IN CITIES.

AN ACT to amend section 1304, article 16 chapter 14, of the revised political code of 1903, relating to assessment in cities.

Be it Enacted by the Legislature of the State of South Dakota.

§ 1. AMENDMENT.] That Section 1304 of Article 16, of Chapter 14 of the Revised Political Code of 1903, be, and the same is hereby amended so as to read as follows:

Section 1304. Whenever any work or improvement mentioned in the preceding section shall have been determined upon, and the contract let therefor, the city engineer shall forthwith calculate the amount to be assessed for such improvement for each lot or parcel of ground abutting or abounding upon such improvement, and in estimating the assessment he shall take the cost of such improvements fronting on the property to be assessed, and divide the same by the number of feet fronting and abutting upon the same, and the quotient shall be the sum to be assessed per front foot so abutting, and said estimate shall be filed with the city auditor, and shall be presented to the city council for their approval at the first meeting held after the work or improvement contracted for shall have been completed. And the city auditor shall cause said estimate of the city engineer, together with the notice of time and place when the council will meet to approve the same, to be published by one publication in the official newspaper of the city at least ten days prior to the meeting of the city council to approve the same.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state, with his objections within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 67.

H. B. 165.)

PROVIDING FOR TAXING CERTAIN ASSESSMENT INSURANCE COMPANIES, SOCIETIES AND ASSOCIATIONS.

AN ACT to amend section 53 of chapter 51 of the session laws of 1890, being section 725 of the civil code of 1903, and to provide for taxing certain assessment insurance companies, societies and associations.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 53 of Chapter 51 of the session laws of 1890, being Section 725 of the civil code of 1903, be and the same is hereby amended to read as follows:

Every mutual benefit association, or insurance company organized or doing business in this state, shall at the time of making annual statements required by this act, pay into the state treasury, as taxes, two per centum of the gross amount of assessments received in this state during the preceding year, taking duplicate receipts therefor, one of which shall be filed with the commissioner of insurance, and upon filing such receipts, and not until then the commissioner of insurance shall issue the annual certificate provided for in this act, the sum of two per centum shall be in full for taxes, state and local.

Provided, That nothing in this Section shall be construed to apply to secret benevolent, or secret fraternal beneficial societies paying death, sick or accident benefits to the widows, orphans, heirs or relatives of deceased members, having a representative form of government, conducting business solely upon the assessment plan and through subordinate, grand or supreme lodges and not organized for profit.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas an emergency exists, this act shall take effect from and after its passage and approval.

Approved February 19, 1903.

CHAPTER 68.

(S. B. 224.)

DEFICIENCY STATE TAX.

AN ACT authorizing and empowering the State board of assessment and equalization to levy a tax of two mills on the dollar on the assessed valuation of all taxable property in the state at their annual meeting in August, 1903, for the purpose of paying the deficiency of the preceeding year.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DEFICIENCY TAX LEVY AUTHORIZED.] It appearing that the ordinary expenses of the state for the fiscal year ending June 30, 1903, exceed the income of the state for such year, the State Board of Assessment and Equalization of the State of South Dakota is hereby empowered and authorized at their annual meeting in the month of August, 1903, to levy a tax of two mills on each dollar, in addition to the ordinary levy of two mills on the dollar, on the assessed valuation of all taxable property in the state, to be ascertained by the last preceding assessment made for state and county purposes, such additional levy of two mills on the dollar to be so made for the purpose of paying the deficiency of the preceding year together with the estimated expenses of the ensuing year.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 6th, 1903.

CHAPTER 69.

(S. B. 68.)

PROVIDING FOR THE ASSESSMENT IN CITIES AND TOWNS IN CERTAIN CASES

AN ACT providing for the assessment in cities and towns in certain cases.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ASSESSOR DISTRICT CREATED.] That each city or town organized and existing under a special charter in which no provision exists for the election or appointment of an assessor, be and the same is hereby, created and constituted an assessor district for all purposes.

§ 2. ASSESSOR SHALL BE ELECTED—COMPENSATION OF.] That at the time of the annual election held in such city or town, there shall be

elected an assessor, who shall hold his office for the term of one year, and shall qualify in the same manner as provided by law in case of other assessors, and who shall receive the same compensation and be paid in the same manner as such assessors.

§ 3. ASSESSMENT SHALL BE GENERAL AND VALID FOR ALL PURPOSES.] That in all cases where, under existing law, the assessment made by any city or town assessor is only taken for local purposes, such assessment shall be general and valid for county, state and other purposes.

§ 4. EMERGENCY.] Whereas, there is now no adequate provision for assessing cities and towns of the class above described, an emergency is therefore hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1903.

CHAPTER 70.

(S. B. 189.)

RELATING TO TAX DEEDS.

AN ACT to amend section 2214 of the Revised Political Code of 1903, being section 1 of chapter 56 of the Session Laws of 1901.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. LIMITATION OF ACTION TO RECOVER.] No actions shall be commenced by the former owner or owners of lands or by any person claiming under him or them, to recover possession of land which has been sold and conveyed by deed for non-payment of taxes or to avoid such deed, unless such action shall be commenced within three years after the recording of such deed, and not until all taxes, interest and penalties, legal costs and expenses shall be paid or tendered by the parties commencing the action. *Provided*, that in cases where the party entitled to receive such taxes, interest and penalties, legal costs and expenses, shall reside outside of the county in which said land is situated, such former owner or owners, his or their representatives or assigns, may offer in writing to pay such taxes, interest, penalties, legal costs and expenses, and may mail such offer to the person entitled to the same, at his postoffice address if the same is known to the party making the same, or if such address is not known to such party, he may offer in his complaint in such action, to pay the said amount of taxes, penalties, legal costs and expenses, and such offer, in either case shall be in lieu of the tender required by this section, and a full compliance with the provisions of this section, in relation to such tender. And in case at any time prior to the joinder of issue in said action, said

party entitled thereto, shall signify in writing that he desires to accept said offer, the party making the same shall within ten days after receipt of such written acceptance pay to the said party, the amount so offered, and if he fail to make such payment within the time aforesaid, said offer shall be deemed withdrawn, prior to the commencement of said action, and the said offer shall be thereby rendered of no effect, and shall be deemed never to have been made. And whenever in any action at law or in equity, the validity of any tax certificate, or tax deed, arises upon the pleadings or otherwise, except where the property sold was not taxable, where the tax was for an illegal purpose, or where the tax was paid before the sale occurred, such action shall not proceed in favor of the party assailing such certificate or deed, unless he shall within such time as the Court shall deem reasonable, deposit in Court, for the benefit of the party claiming thereunder, an amount equal to the sum required by law to redeem from the tax sale or sales involved together with the costs and disbursements of the action, then incurred by the party claiming under such certificate or deed.

§ 2. EMERGENCY.] - Whereas, an emergency is hereby declared to exist, this act shall take effect and be in force, from and after its passage and approval.

Approved March 12, 1903.

CHAPTER 71.

(H. B. 29.)

PROVIDING FOR COLLECTION OF DELINQUENT PERSONAL PROPERTY TAXES.

AN ACT to amend section 2185, chapter 20, of the Revised Political Code of 1903, entitled "An Act to provide for the collection of delinquent personal property taxes by the sheriff.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2185, Chapter 20 of the revised political code of 1903, be and the same is hereby amended so as to read as follows:

§ [2185]. TREASURER TO MAKE LIST, SHERIFF TO COLLECT FEES OF.] On the 1st day of May of each and every year the county treasurer shall make a list of all persons against whom delinquent personal property taxes are assessed and shall notify each delinquent before the first day of June of each year of the amount due from him on such delinquent tax, by a notice duly mailed, addressed to his last known postoffice address, and shall before the first day of July each year make oath to the mailing of such notice, which shall be conclusive evidence of the mailing thereof. That

on the 1st day of July of each year, the County Treasurer shall certify the list of delinquent personal taxes still remaining unpaid to the sheriff of his county, who shall upon receipt of same, file the list in his office and immediately proceed to collect such delinquent taxes in the manner and method now provided by law for the collection of delinquent personal property taxes by the treasurer, and the sheriff shall be entitled to the same fees for collecting such taxes as is by law now given to the County Treasurer for levy and distraint and the County Treasurer shall receive no fee on money so collected by the sheriff other than the percentage now allowed and credited to the special salary fund. *Provided*, however, that nothing in this act shall prevent the Treasurer from receiving taxes and issuing receipts therefor as heretofore, and in addition to the taxes, penalty and interest due, shall collect all accrued costs of the sheriff incurred under the provisions of this act, provided that no costs shall be collected by the treasurer, or paid to the sheriff, unless the sheriff shall before such payment file an itemized statement of such costs on, or before December 1st of each year, after receiving such list of taxes, and on January 1st of the following year the sheriff must make a return of his full proceedings thereunder and file the same with the county auditor. For such taxes as have been collected there must be attached to the said return a duplicate receipt to the sheriff from the county treasurer showing the total amount paid into the treasury since the last return and for such taxes as are not collected, a statement showing why they are so, must be attached. No fees shall be paid to the sheriff for such collections, except out of taxes collected as hereinafter provided. The county treasurer shall furnish the sheriff with tax receipts for such collection and shall have the following words printed at the top of each receipt: "Sheriff's Receipt for Delinquent Personal Property Taxes." The sheriff shall turn over to the county treasurer the full amount collected at the close of each month including all mileage allowed by law and other costs and fees collected and take a receipt from the county treasurer on the stub or duplicate of each receipt so issued and for each and every collection. The county treasurer shall on the last day of each month furnish the sheriff with a certified list of fees, mileage and other amounts which by law is now allowed to the county treasurer, that have been paid into his office by the sheriff, and the sheriff shall file such list with the county auditor as a bill against the county, for which the board of county commissioners shall allow the sheriff a warrant in full.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 13, 1903.

CHAPTER 72.

(H. B. 198.)

AUTHORIZING THE CONSOLIDATION OF STATE TAX FUNDS.

AN ACT to authorize the consolidation of state tax funds and placing to the credit of the general fund of the state the receipts from the grain warehouse commission, sale and rental of Taylor property, and taxes paid by express and sleeping car companies.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. FUNDS CONSOLIDATED.] The State Auditor and State Treasurer are hereby authorized and directed to consolidate into one account the accounts heretofore kept between the state and the several counties of the state of taxes levied and collected for state purposes for the year 1900 and prior years, and to place to the credit of the general fund of the state all collections hereafter received from said years' state tax levies.

§ 2. DUTY OF AUDITOR AND TREASURER.] The state auditor and state treasurer are hereby authorized and directed to place to the credit of the general fund of the state all monies hereafter received from the grain and warehouse commission, from sale and rental of property formerly belonging to W. W. Taylor, or his bondsmen, and also the proceeds of taxes levied annually by the state board of assessment and equalization upon the express and sleeping car companies doing business within this state.

Approved March 6, 1903.

CHAPTER 73.

(S. B. 190.)

AUTHORIZING BOARDS OF SUPERVISORS OF TOWNSHIPS TO LEVY A SINKING FUND TAX.

AN ACT to amend Section 2702 of the revised political code of 1903, authorizing the board of supervisors of townships to levy a sinking fund tax, to pay bonds issued for artesian wells and the interest thereon.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 2702 of the revised political code of 1903, be and the same is hereby amended to read as follows:

Section 2702. The board of supervisors of said township may, in any of the years after the issuance of said bonds, levy a sinking fund tax for the purpose of paying said bonds, as they become redeemable, and in case there shall not have been sufficient money paid into the county treasury

for water rents on the first day of April, in each year, to pay the amount of interest on the water bonds for the year, then it shall be the duty of the civil officers of said township, to levy and collect a sufficient tax to pay the interest upon the said bonds, and it is hereby made the duty of the township board, to levy upon the taxable property of said township of the civil township, a sufficient tax to pay the interest upon the water bonds, whenever there shall be an insufficiency of funds from water rents to pay the interest as in this section provided. And after five years, a sufficient tax shall be levied upon the taxable property of the civil township, to provide a sinking fund for the payment of the principal of the bonds when due, but in no event shall any such tax exceed three per cent upon the taxable property of the township in any one year.

§ 2. EMERGENCY.] *Whereas*, an emergency is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 74.

(H. B. 175:)

RELATING TO SALES OF REAL ESTATE FOR DELINQUENT TAXES.

AN ACT relating to sales of real estate for delinquent taxes.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. NOTICE OF SALE OF REAL ESTATE FOR TAXES.] All lands, town lots and other real property on which taxes are delinquent for the year 1899 and preceding years, may be by the County Treasurer included in the published notice of sale now required by law, to begin on the first week in October of the year 1903, and may be offered for sale and sold at the tax sale now required by law to begin on the first Monday of November of the year 1903.

§ 2. CERTAIN REAL ESTATE TO BE INCLUDED.] All lands, town lots and other real property on which taxes for the year 1890 and preceding years are delinquent but which properties were not advertised or sold at the sale beginning on the first Wednesday of November, 1901, as required by Chapter 51 of the Session Laws of 1901, shall be included in the notice offer of sale and sale provided in the foregoing section.

§ 3. REAL PROPERTY MUST NOT BE SOLD FOR LESS THAN AMOUNT OF TAXES AND COSTS.] *Provided*, that nothing in this act shall be construed as permitting county treasurers to sell real property under section 12 of chapter 51 of the laws of 1901, at a sale subsequent to that beginning on

the first Wednesday of November, 1901, for less than the original amount of taxes with the costs of judgment and sale added, and *provided further*, that nothing in this act shall be held in any manner to impair or repeal either section 2222, section 2223 or section 2224 of the Political Code of 1903.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 11.

CHAPTER 75.

(H. B. 210.)

RELATING TO SCHOOL LEVY.

*Repealed
by Ch 135-1907*

AN ACT to amend section 2417 of the political code of the revised codes of 1903, relating to school levy.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2417 of the Political Code of the Revised Code of 1903, be and the same is hereby amended to read as follows:

Section 2417. SCHOOL BOARD SHALL LEVY TAX.] The Board of Education shall on or before the fifteenth day of August of each year, levy a tax for the support of the schools of the corporation for the fiscal year next ensuing, not exceeding in any one year twenty-five mills on the dollar on all personal and real property within the district which is taxable according to the laws of the state, and which levy the clerk of the board of education shall certify to the county auditor, who is hereby authorized and required to place the same on the tax roll of said county to be collected by the treasurer of the county as the taxes of the county and paid over by him to the treasurer of the board of education, of whom he shall take a receipt in duplicate, one of which he shall file in the office and the other he shall transmit to the clerk of the board of education.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 9, 1903.

CHAPTER 76.

(S. B. 115.)

Am ch 355-1913

Am ch 25
Sess 1909

RELATING TO TAX SALE CERTIFICATES.

AN ACT to amend section 2199 of the revised political code of 1903, requiring assignees of tax sale certificates to record the assignment thereof with the county treasurer.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2199 of the revised political code of 1903 be amended to read as follows:

Section 2199. The purchaser of any tract of land sold by the county treasurer for taxes will be entitled to a certificate describing the land so purchased, the sum paid, and stating the time when the purchaser will be entitled to a deed, which certificate shall be assignable, and said certificates shall be signed by the treasurer in his official capacity. Any assignment of such certificate must be acknowledged before some officer having power to take acknowledgments of deeds, and shall be presumptive evidence of the regularity of all prior proceedings. The purchaser acquires the lien of the taxes on the land, *provided*, that he presents the assigned certificate to the said county treasurer for record and said county treasurer shall in a book kept for that purpose, keep a record of said assignment containing the name of the assignor, the name of the assignee, and his postoffice address, the date of the assignment and such other memoranda as shall be necessary to identify the certificate and show the assignment to the party presenting the same for record. If said purchaser subsequently pay taxes levied on the said land so purchased whether levied for any year or years previous or subsequent to such sale, he shall have the same lien for them and may add them to the amount paid by him in the purchase, and the treasurer shall make out the tax receipt and duplicate for the taxes on the real estate mentioned in such certificate the same as in other cases, and shall write thereon "Sold for taxes at public sale."

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 10, 1903.

ATTORNEYS.

CHAPTER 77.

(S. B. 3.)

PROVIDING FOR THE ADMISSION TO PRACTICE OF GRADUATES OF THE COLLEGE
OF LAW OF THE STATE UNIVERSITY.

AN ACT relating to the admission to practice of graduates of the college
of law of the state university.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. All students of law who have completed the course prescribed by the College of Law of the State University, or the equivalent of such course, including the subjects prescribed by law for admission to the Bar in this state, and who have attained the standing required by law in such course and subjects, and have graduated therein, and been admitted by the said State University to the degree of Bachelor of Laws, shall be deemed to have the learning requisite to entitle them to practice in any of the courts of the state; and any such graduate being an applicant for admission to such practice shall be admitted by the Supreme Court of this state without further examination, upon proof of the admission to such degree and upon proof that such applicant is at least twenty-one years of age, and of good moral character.

Approved February 17, 1903.

CHAPTER 78.

(S. B. 37.)

RELATING TO ATTORNEYS.

119 Ind. 1021

Am Ch 72, 1907

AN ACT to amend section 686 of the Revised Political Code of 1903, relating to attorneys and counselors at law.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 686 of the revised political code of 1903, be and the same is hereby amended so as to read as follows:

Section 686. QUALIFICATIONS OF.] Every applicant for such admission must be at least twenty-one years of age, of good moral character and an inhabitant of this state, and must have actually and in good

faith pursued a regular course of study of the law for at least three full years, either in an office of a member of the bar in regular practice in this state, or other state, or of a judge of a court of record, or in some reputable law school in the United States, or partly in such office and partly in such law school but in reckoning such period the study or school year of any such law school, constituting not less than thirty-six weeks, exclusive of vacation, shall be considered equivalent to a full year. Every resident of this state who commences the study of law on and after the taking effect of this act, either under the tuition of an attorney at law, or a law school, whether located in this state or elsewhere, shall file with the clerk of the supreme court a certificate of such attorney or the chief officer of such law school, as the case may be, showing his name, age and residence, and the date when he commenced the study of law, which certificate shall be accompanied by a fee of fifty cents, and as to all such persons the three years study of law, required by this section, shall date from the date of filing of such certificate.

Provided, any person having commenced the study of law prior to the taking effect of this act, may state the time in such certificate, and the period of study shall date from that date.

And *provided, further*, that said supreme court may, on sufficient grounds being shown by any applicant, excuse the filing of said certificate as of the date when his three years study of law began, and may permit such certificate to be filed at any time before such admission. Every such applicant for admission must also have an education substantially equivalent to that involved in the completion of a high school course of study of at least three years in extent. The following will be accepted as evidence of such attainments:

(a) A diploma from a college or university of approved standing; a diploma or certificate of graduation from such high school certificate of matriculation in the freshman or higher class, in the academic department of such college; (d) a diploma or certificate of an academy or normal school of approved standing; (e) a first grade certificate from a county superintendent of the schools of the state; such evidence however, shall not be necessary if the court is satisfied that the applicant possesses the requisite general education. Every such applicant except graduates of the college of law of the State university entitled to admission to practice as by law provided, shall be examined by the court or a commission of not less than five members of the bar, to be appointed in the discretion of and under such rules and regulations as the court may provide, as to his learning and skill in the law; and the court must be satisfied, before admitting to practice, that the applicant has actually, and in good faith devoted the time hereinbefore required to the study of law, possesses the requisite skill and learning therein, and has also the general education required by this act. Such certificate shall not be made unless the applicant has a standing on his written answers to the printed questions of the examiners of an average of seventy-five per cent., on an examination embracing the following subjects: Evidence, law of real and personal prop-

erty, torts, contracts, pleading, partnership, bailments, negotiable instruments, agency, suretyship, domestic relations, wills, corporations, equity, criminal law, constitutional law, the code of civil procedure and legal ethics.

Approved March 12, 1903.

BANKING.

Rep ch 102-1915

State v Struble 104 N.W. 465

CHAPTER 79.

(S. B. 174.)

105 N.W. 742

Repealed ch. 222 Sess'0

PROVIDING A UNIFORM SYSTEM FOR THE ORGANIZATION AND CONTROL OF BANKS.

AN ACT to provide a uniform system for the organization and control of banks and defining the duties and powers of the public examiner.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DEFINING BANKS AND BANKING.] For the purposes of this act every corporation, association, firm or individual whose business, in whole or in part, in South Dakota, consists of the taking of deposits or buying and selling exchange shall be held to be and is hereby declared to be a bank or banker, and the business of such corporation, association, firm or individual that of banking, and as thus defined such individual member of such corporation, association or firm (except as to national banks) shall be subject to all the provisions of this act.

Where reference herein is made to banks, bankers or banking in any manner the same shall be construed as applying to any such corporation, association, firm or individual so engaged in business as here defined.

§ 2. PUBLIC EXAMINER EX-OFFICIO SUPERINTENDENT OF BANKS.] The Public Examiner of South Dakota shall be ex-officio Superintendent of Banks; he shall cause every corporation, association, firm or individual, transacting a banking business in this state to report to him not less than four times during each year according to the form which may be prescribed by him, verified by the oath or affirmation of the President, Vice President, Cashier or Assistant Cashier, or managing officer of such banking institution and attested by the signature of at least two of its directors, if same is a private bank, to be sworn to by owner. Every such report shall exhibit, in detail and under appropriate heads, the resources and liabilities of said institution at the close of business on any past day by him specified and shall be transmitted to the Public Examiner within seven days after the receipt of a request therefor from him and in the same form in which it is made, to the Public Examiner shall be published in a newspaper published in the place where such association is established, or if there is no newspaper in the place, then in one published nearest thereto in the same

county, at the expense of the said banking institution; and such proof of publication shall be furnished as may be required by the Public Examiner. The Public Examiner shall also have power to call for special reports from any particular banking institution whenever in his judgment the same are necessary to enable him to have a full and complete knowledge of its condition.

§ 3. DUTY AND POWERS OF PUBLIC EXAMINER.] It shall be the duty of the Public Examiner by and with the approval of the Governor, to appoint not more than two deputies and one clerk whose duty it shall be to assist him in the affairs of his office. It shall be the duty of the Public Examiner to examine or cause to be examined by one of his deputies at least twice a year every corporation, association, firm or individual transacting a banking business in this state, and transmit to the governor a detailed report of such examination.

The Public Examiner shall have authority by and with the approval of the Governor to immediately take charge of any bank whenever he becomes satisfied that such bank is insolvent, and whenever such insolvent bank has been taken charge of by the public examiner the right of levy of execution or attachment against such bank or its assets shall be suspended and the public examiner may forthwith apply to the circuit court or judge thereof for the appointment of a receiver for such bank, and its affairs shall be closed up under the direction of the court and the assets thereof ratably distributed among the creditors thereof giving preference in payment to depositors.

§ 4. DUTY AND SALARY OF DEPUTY PUBLIC EXAMINERS AND CLERK—QUALIFICATIONS.] No person shall be appointed a deputy public examiner of this state who is directly or indirectly connected with any banking institution doing business in this state. It shall be the duty of every deputy public examiner in this state to act at all times under the direction of the public examiner and he shall carefully and intelligently examine into the affairs of every banking institution of this state whenever asked to do so by the public examiner. He shall receive as compensation for his work a salary of fifteen hundred dollars (\$1500) per year payable monthly to be paid out of the state treasury in the same manner that the salary of other state officers are paid and shall be paid upon request of the public examiner. It shall be the duty of the clerk to assist the public examiner in his office and he shall receive as compensation a salary of nine hundred dollars (\$900) per year payable monthly and to be paid in the same manner as the salary of the deputy public examiner.

Each deputy public examiner shall give a bond in the sum of five thousand dollars (\$5000) and such bond shall be approved by the governor and filed in the office of the secretary of state.

§ 5. ASSOCIATIONS—HOW FORMED.] Associations for carrying on the business of banking under this title may be formed by any number of natural persons, not less than three (3), one-third of whom shall be residents of this state. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed

and may contain any other provisions not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons united to form the association, and a copy of them shall be forwarded to the secretary of state and to the public examiner of the State of South Dakota.

§ 6. CERTIFICATE.] The persons uniting to form such an organization shall under their hands make an organization certificate which shall specifically state:

First. The name assumed by such association, which name shall not be that of any other bank in the State.

Second. The place where the business of discount and deposit is to be carried on.

Third. The amount of capital stock and the amount into which its shares are to be divided.

Fourth. The names and places of residence of the shareholders and the number of shares held by each of them.

Fifth. The period at which such banks shall commence and terminate business.

§ 7. CERTIFICATE TO BE FILED WITH THE SECRETARY OF STATE] The organization certificate shall be acknowledged before a clerk of some court of record or notary public, and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or a notary, recorded in the office of the Register of deeds in the county where such bank may be established, and such certificate thus authenticated shall be transmitted to the secretary of state, who shall record and carefully preserve the same in his office.

§ 8. POWERS.] Upon duly making and filing articles of association and an organization certificate the association shall become as from the date of the execution of the same a body corporate, and as such and in the name designated in the certificate, it shall have power: *Am. cl. 73, 190;*

First. To adopt and use a corporate seal.

Second. To have succession for a period of twenty (20) years from its organization, unless it is sooner dissolved, according to the provisions of this act, or unless its franchise becomes forfeited by some violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend in any court of law or equity, as fully as natural persons.

Fifth. To elect or appoint directors and by its board of directors to appoint a president, vice president, cashier and assistant cashier, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them, and appoint others to fill their places.

Sixth. To prescribe by its board of directors by-laws not inconsistent with the law, regulate the manner in which its stocks shall be transferred, its business conducted, and the privileges granted it by law exercised and enjoyed.

Seventh. To exercise by its board of directors or duly authorized

officers or agents, subject to law, all such powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, bills of exchange, drafts and other evidences of debt; by receiving deposits, by buying and selling exchange, coin and bullion, by loaning money on personal, chattel and real estate security. *Provided*, that no loan shall be made to any officer or employe of the said bank without the consent and approval of its board of directors and provided further, that said bank shall be permitted to carry in its assets loans secured by first mortgage on real estate to an amount not to exceed twenty-five (25) per cent of its total bills receivable; but no association shall transact any business except such as incidental and necessarily preliminary to its organization until it has been authorized by the secretary of state to commence the business of banking, and the secretary of state may withhold from any association his certificate authorizing commencement of business whenever he has reason to believe that the shareholders have formed the same for any other than legitimate objects, as contemplated by this act.

§ 8. ADDITIONAL POWERS.] Banking associations formed under this act shall have power to purchase, hold and convey real estate for the following purposes and no other:

First. Such as may be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees or mortgages held by such association, or shall purchase to secure debts due to it; but no such association shall hold the possession of any real estate under mortgage or the title and possession of any real estate purchased to secure any debt due to it for a longer period than five (5) years.

§ 9. CAPITAL REQUIRED.] No association shall be organized under this title in towns containing five hundred (500) inhabitants or less, with a less capital than five thousand dollars (\$5000) in towns of over five hundred (500) and not over two thousand inhabitants with a less capital than ten thousand dollars (\$10,000), in towns of over two thousand (2000) inhabitants the capital shall not be less than twenty-five thousand dollars (\$25,000), all of which shall be paid in full before commencing business, and no person, firm, corporation or association shall engage in the banking business without complying with the provisions of this act.

§ 10. ARTICLES USED IN EVIDENCE.] A certified copy of the articles of incorporation may be used in evidence in all courts for or against such bank, or any person for or against whom such evidence is necessary, whether on civil or criminal trial.

§ 11. ASSESSMENT FOR IMPAIRMENT OF CAPITAL.] Every association whose capital stock shall have become impaired by losses or otherwise, shall, within three months after receiving notice thereof from the public examiner, pay the deficiency in the capital stock, by assessment upon

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the shareholders pro rata for the amount of capital stock held by each. If any such association shall fail to make good the impairment of its capital stock and shall refuse to go into liquidation, three (3) months after receiving notice from the public examiner, a receiver may be appointed to close up the business of the association.

§ 12. DELINQUENT STOCK—HOW SOLD.] Whenever any shareholder or his assignee fails to pay any assessment on stock held by him or standing in his name on the books of the association, the directors of such association may sell the stock of the delinquent shareholder or as much thereof as may be necessary to satisfy the debt, at public auction after having given three weeks notice thereof in a newspaper published and in general circulation in the city or county where the association is located to any person who will pay the highest price therefor, to be not less than the amount due thereon, with the expenses of the advertisement and sale, and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association and the cost of the advertisement and sale, such stock shall be forfeited to the association and shall be sold by the directors of said association within six (6) months from the time of such forfeiture.

§ 13. CAPITAL STOCK—LIABILITY OF SHAREHOLDERS.] The capital stock of each association shall be divided into shares of one hundred dollars (\$100) each and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed by the by-laws or articles of such association; Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all rights and liabilities of the prior holders of such shares and no changes shall be made in the articles of association by which the rights, remedies or security of the existing creditors of the association shall be impaired.

§ 14. INCREASE OR DECREASE OF CAPITAL STOCK.] Any association formed under this title may by its articles of association provide for an increase of its capital stock from time to time as may be deemed expedient, subject to the rules and limitations of this title, but no increase of capital shall be valid until the whole amount shall be paid in, in cash, and such payment certified under oath by the president, vice president, cashier or assistant cashier of such association, to the secretary of state, who shall give his certificate that the provisions of this section have been complied with, and specifying therein the amount of such increase of capital stock with his approval thereof, that it has been duly paid in as a part of the capital thereof; any association formed under this title may by vote of its shareholders owning two-thirds of its capital stock, reduce its capital to any sum not below the amount required by this title to authorize the formation of association, but no such reduction shall be made until the amount of the proposed reduction is reported to the secretary of state and his approval thereof obtained in writing and no such reduction shall be construed as affecting the liability of shareholders for any debts of the association incurred prior to such reduction.

§ 15. ASSOCIATION—HOW DISSOLVED.] Any association organized

under the provisions of this act, may be dissolved by the circuit court of the county where its office or principal place of business is situated, upon its voluntary application for that purpose. The application must be in writing and must set forth that at a meeting of the stockholders or members called for that purpose the dissolution of the association was resolved upon by a two-thirds vote of all the stockholders or members, and that all claims and demands against the association have been satisfied and discharged. The application must be signed by a majority of the board of directors or other officers having the management of the affairs of the association, and must be verified in the same manner as a complaint in civil action. A verified copy of the application shall be filed with the public examiner within ten days after the filing of such application with the circuit court. If the court is satisfied that the application is in conformity with this act, it must order the application to be filed, and that the clerk give not less than thirty (30) and not more than fifty (50) days' notice of the application by public issue in some newspaper published in the county, and if there are none such, then by advertisement posted up in five of the principal public places in the county.

At any time before the expiration of the time of publication, any person may file his objections to the application. Before the final hearing and determination of the application the public examiner shall make a thorough examination of the affairs of such association and file a certified statement of such examination with the clerk of the court of the county where such application is made, which statement shall be part of the papers in the case. After the time of publication has expired the court may, upon five (5) days' notice to the persons who have filed objections, or without further notice, if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true, the court must declare the association dissolved. No stockholder or officer of such association shall be allowed to withdraw from such association or surrender or dispose of his shares of stock, after the filing or making of such application for dissolution, and prior to the final determination of the case. Upon the dissolution of such association by the circuit court the clerk of said court shall forthwith notify the secretary of state and the public examiner of such dissolution by sending a copy of the order of the court, and said order and notice shall be filed by the secretary of state with the original certificate of organization. The application, notices and proof of publication, objections (if any) and declarations of dissolution constitute the judgment roll and from the judgment an appeal may be taken in the same manner as in other actions.

§ 16. CORPORATE EXISTENCE MAY BE EXTENDED.] Any banking association may at any time within one year next previous to the expiration of the period for which it was incorporated extend its period of succession by amending its articles of association for a term of not more than twenty years from the expiration of the period of succession named in said articles of association and shall have succession for such extended period, unless sooner dissolved by the act of the shareholders owning two-thirds of the

stock, or unless its franchise becomes forfeited by some violation of law, or unless hereafter modified or repealed; such amendment of said articles of association shall be authorized by the consent in writing of shareholders owning not less than two-thirds of the capital stock of the association; and the board of directors shall cause such consent to be certified under the seal of the association, by its president or cashier, to the secretary of state, accompanied by an application made by the president or cashier for the approval of the amended articles of association by the secretary of state; and such amended articles of association shall not be valid until the secretary of state shall give to such association a certificate under his hand and seal that the association has complied with the provisions of this section and is authorized to have succession for the extended period named in the amended articles of the association; and the secretary of state shall not issue such certificate until he shall receive from the public examiner a certificate that said association has complied with all the requirements of his office.

§ 17. DIVIDENDS.] The directors of any association organized under this act may semi-annually declare a dividend of so much of the net profits of the association as they shall judge expedient, but each association shall, before the declaration of a dividend, carry one-tenth of its net profits of the preceding half year to its surplus fund until the same shall amount to twenty (20) per cent of its capital stock.

§ 18. QUALIFICATION OF DIRECTOR.] Every director must own, in his own right, at least five (5) shares of the capital stock of the association of which he is a director. Any director who ceases to be the owner of five (5) shares of stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

§ 19. CAPITAL TO REMAIN INSOLVENT—BAD DEBTS.] No association or any member thereof shall, during the time it shall continue in banking operations, withdraw, or permit to be withdrawn, either in form of dividends or otherwise any portion of its capital; if losses have at any time been sustained by such association equal to or exceeding its individual profits then on hand; no dividends shall be made; and no dividend shall be made by any banking institution while it continues its banking business to any amount greater than its net profits on hand, deducting therefrom its losses and bad debts; all debts due to an association on which the interest is past due and unpaid for a period of six (6) months unless the same are well secured and in process of collecting, shall be considered bad debts within the meaning of this section, but nothing in this section shall prevent the reduction of capital of the association under section 14 of this act.

§ 20. RESPONSIBILITY OF SHAREHOLDERS.] Each shareholder of every association organized under this act shall be individually liable for the debts, liabilities and obligations of said institution in an amount equal to twice the par value of the stock of said institution held by him or standing on the books of said institution in his name.

§ 21. CERTAIN LOANS PROHIBITED.] No association shall make any loans or discounts on the security of the shares of its own stock nor

be the purchaser or holder of any such shares unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock, so purchased or acquired shall within six (6) months be sold or disposed of at public or private sale.

§ 22. ASSETS AND LIABILITIES—RESERVE.] Each banking institution doing business in this state shall at all times have on hand in available funds or deposited in other good solvent banks an amount equal to twenty (20) per cent of its deposits.

§ 23. FINES AND PENALTIES—HOW RECEIVED.] All fines and penalties heretofore provided for, to which any association organized under this act may become subject to, shall be recovered on complaint of the public examiner, before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

§ 24. LOANS AND DISCOUNTS.] The total liability to any banking institution, of any person or company, corporation or firm, for money borrowed, including in the liabilities of a company or firm, the liabilities of the several members thereof, shall not at any time exceed twenty-five (25) per cent of the capital stock of such banking institution, but the discount of bills of exchange drawn in good faith against actual existing values or loans upon produce in transit or in store as collateral security and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as money borrowed.

§ 25. PENALTIES FOR VIOLATION OF ACT.] Any person or persons violating the provisions of this act not hereinbefore specially provided for, shall, upon conviction thereof, pay a fine of not less than fifty (\$50) dollars nor more than five hundred dollars (\$500) for each offense, to be recovered before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

§ 26. FALSE STATEMENTS—PENALTIES.] Every officer, agent or clerk of any banking institution under this title who subscribes or makes any false statements or entries in the books of such institution or subscribes or exhibits any false paper with the intent to deceive any person authorized to examine as to the condition of such banking institution, or subscribes or makes false reports, shall be subject to imprisonment at hard labor in the state penitentiary, for such term, not less than one (1) year or more than ten (10) years, as the court trying him may designate. 105

§ 27. FORFEIT OF CHARTER FOR FAILURE TO OBEY ORDER OF THE PUBLIC EXAMINER.] Every banking association doing business in this state which shall refuse or neglect to comply with any requirements lawfully made upon it by the public examiner pursuant to this chapter, for a period of ninety (90) days after demand in writing is made, shall be deemed to have forfeited its charter, and any failure on the part of such banking institution to comply with, or any violation of the provisions of this act shall work a forfeiture of its charter and in either case the attorney general, upon demand of the public examiner, shall commence an action for the purpose of annulling the existence of said banking institution.

§ 28. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 6, 1903.

CHAPTER 80.

(S. B. 36.)

AUTHORIZING THE EXTENSION OF CHARTERS OF BANKING CORPORATIONS.

AN ACT authorizing the extension of the charters of banking corporations.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CORPORATE EXISTENCE MAY BE EXTENDED.] Any banking corporation may, at any time within one year next previous to the expiration of the period for which it was incorporated, and with the approval of the secretary of state, to be granted as hereinafter provided, extend its corporate existence for a period of not more than twenty years from the expiration of the period named in its articles of incorporation, by amending its articles of incorporation as hereinafter provided.

§ 2. AMENDED ARTICLES.] Such amended articles of incorporation must be executed and acknowledged by the holders of not less than two-thirds of the capital stock of such corporation; and the board of directors shall cause such amended articles of incorporation to be certified by its president or cashier, under the seal of the corporation, to the secretary of state, accompanied by an application by the president or cashier for their approval by the secretary of state; *provided*, no change shall be made in the articles of incorporation under this act other than to extend the period of corporate existence.

§ 3. DUTY OF SECRETARY OF STATE.] Upon receipt of the amended articles of incorporation certified as provided in the preceding section, accompanied by the application therein provided for, the secretary of state may cause a special examination to be made by the public examiner to determine the condition of said bank, and if, after such examination or otherwise, it appears to him that said corporation is in a solvent condition, he shall file in his office the amended articles of incorporation and such application by the president or cashier.

§ 4. DUTY OF SECRETARY OF STATE.] Upon the filing in his office of the papers designated in the preceding section, and upon the payment to him by said bank of a fee therefor of fifteen (\$15.00) dollars the secretary of state shall issue to said bank an amended certificate of incorporation under the great seal of the state, stating the period for which the corporate existence of said bank is extended, and thereupon the corporate ex-

istence of said bank shall be extended for the period named in such amended certificate and said bank shall continue to be in all respects the same corporation that it was under its original incorporation, with the same privileges and immunities, and subject to the same liabilities and restrictions, except that it shall thereafter be subject to the provisions of the state constitution.

§ 5. NOTICE TO STOCKHOLDERS.] Immediately upon receipt by such bank of such amended certificate, notice thereof shall be given to each stockholder of said bank who did not unite in the execution of the amended articles of incorporation, which notice shall be given in the same manner as the notice of special meetings of the stockholders of said bank.

§ 6. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 7. EMERGENCY.] *Whereas*, no adequate provisions of law exists for authorizing the extending of the charters for banking corporations, therefore an emergency is declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

BONDS.

CHAPTER 81.

(H. B. 103.)

RELATING TO JUDGMENT BONDS.

AN ACT to authorize cities, towns, counties, boards of education, school and civil townships to issue judgment bonds, and to compromise judgments.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BONDS TO BE ISSUED TO PAY JUDGMENT BONDS.] That whenever an incorporated city, town, county, school township, board of education, or civil township, in this state has already been authorized at an election legally held for that purpose, to issue its funding bonds, and under and by virtue of such authority has issued and sold such funding bonds within the limits of such authority and whenever a judgment has been regularly recovered upon such bonds, either upon the principal, or defaulted coupons belonging thereto, establishing the validity thereof, in a court of competent jurisdiction, such city, town, county, school township, board of education, or civil township may, for the purpose of compromising such judgment, whenever a majority of the members of the city council of such city, or of the board of trustees of such town, or such civil township, or of the board of county commissioners of such county, or of the members of the board of directors of such school township, or of the members of such board of education, in regular session shall, by resolution, duly passed,

and entered upon the records, declare it to be for the best interest of such city, town, civil township, county, school township, or board of education, so to do, without submitting the matter to a vote of the electors thereof, issue the bonds of such city, town, civil township, county school township, or board of education, to be executed by the officers now empowered by law to sign other bonds issued by such corporate bodies.

Provided, that the bonds so issued shall be delivered only to the judgment creditor upon the release by him of the said judgment; and shall not exceed the amount due upon said judgment; nor run for more than twenty, nor less than ten years; nor be in denominations greater than five hundred dollars in each bond; nor bear interest at more than four per cent per annum; and

Provided, further, that said city, town, civil township, county, school township or board of education may compromise and settle with said judgment creditor by the delivery of any lesser amount of such bonds, that such creditor may be willing to accept in full settlement and for a release of such judgment.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force immediately after its passage and approval.

Approved March 3, 1903.

CHAPTER 82.

(H. B. 107.)

RELATING TO BOND OF STATE TREASURER.

AN ACT to amend section 97 of article 5 of the revised political code of 1903, relating to the official bond of the state treasurer.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 97 of Article 5, of the Revised Political Code of 1903, be and is hereby amended so as to read as follows: "Article 5, Section 97. The state treasurer must execute an official bond in the sum of five hundred thousand dollars.

§ 2. ACT IN EFFECT—WHEN.] This act shall take effect and be in force only from and after the first day of January, 1905.

§ 3. REPEAL.] That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 11, 1903.

BOTTLING WORKS.

CHAPTER 83.

(H. B. 119.)

PREVENTING THE DESTRUCTION OF CERTAIN PROPERTY.

AN ACT making it unlawful for any person or persons to destroy the property of another, and defining and providing for the business of bottling works, and the business pertaining thereto.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. UNLAWFUL USE OR SALE OF BOTTLES, BOXES, ETC., OF ANOTHER.] Persons engaged in the manufacture, bottling or selling soda water, mineral or aerated waters, cider; milk, cream or other lawful beverages in bottles, boxes, casks, kegs or barrels, with their name or other marks of ownership stamped or marked thereon, may file in the office of the register of deeds of the county in which such articles are manufactured, bottled or sold, a description of the name or marks so used by them and cause a notice thereof to be given by three consecutive publications in a weekly newspaper in said county.

It shall thereupon be unlawful for any person, without the written consent of the owner, to fill such bottles, casks, kegs or barrels so marked or stamped, for the purpose of sale or to sell, dispose of, buy or traffic in, or wantonly to destroy the same, whether filled or not; and any violation of this section shall be punished by a fine of not less than five dollars (\$5.00) and not to exceed the sum of one hundred dollars (\$100.00.)

The using by any other person than the rightful owner, without written permission of any such casks, barrels, kegs or bottles or boxes as prohibited in this section, or the possession of by any junk dealers or dealer in such casks, barrels, kegs, bottles or boxes, the same being marked or stamped and registered as herein required, shall be prima facie evidence that such use the sale or possession is unlawful, and search may be procured for the discovery and seizure of such bottles, casks, kegs or barrels as in other criminal cases.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

BURGLARY.

CHAPTER 84.

(H. B. 288.)

RELATING TO BURGLARY.

AN ACT to amend section 569 of the revised penal code of 1903, relating to burglary.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 569 of the revised penal code of 1903, be and the same is hereby amended to read as follows: Section 569. Burglary is punishable by imprisonment in the state prison as follows:

1. Burglary in the first degree, for any term not less than 10 years.
2. Burglary in the second degree not exceeding fifteen years and not less than five.
3. Burglary in the third degree, not exceeding fifteen years.
4. Burglary in the fourth degree, not exceeding three years.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1903.

CAPITOL BUILDING.

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CHAPTER 85.

(H. B. 63.)

DIRECTING THE WARDEN OF THE PENITENTIARY TO SUPPLY ROCK OR STONE FOR THE CONSTRUCTION OF A STATE CAPITOL BUILDING.

AN ACT enabling and directing the state board of charities and corrections to empower and direct the warden of the state penitentiary to supply rock or stone for the construction of a state capitol building for the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION.] The State Board of Charities and Corrections is hereby empowered, authorized and directed to direct the Warden

of the State Penitentiary to furnish and supply gratuitously, from the labor of convicts confined in said Penitentiary a sufficient amount of rock or stone for the construction of a suitable state capitol building. *Provided*, suitable stone can be procured in the quarries belonging to the state.

§ 2. EMERGENCY.] Whereas, an emergency is hereby declared to exist this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1903.

CHARITABLE AND PENAL INSTITUTIONS.

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CHAPTER 86.

(H. B. 94.)

PROVIDING FOR THE GOVERNMENT OF CHARITABLE AND PENAL INSTITUTIONS

AN ACT to provide for the government of the charitable and penal institutions of the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. INSTITUTIONS UNDER CONTROL OF BOARD.] The charitable and penal institutions of the State of South Dakota, consisting of the Penitentiary, the Insane Hospital, the Northern Hospital for the Insane, the School for the Deaf and Dumb, the School for the Blind, and the Reform School shall be under the control of the State Board of Charities and Corrections, consisting of three members. Said board shall be appointed by the Governor and confirmed by the Senate. The first appointments shall be, one for the term of two years, one for the term of four years, and one for the term of six years, and thereafter the regular terms of such office shall be for six years, and the members appointed for regular terms shall hold office until their successors shall be appointed and qualified. Any vacancies in the membership of such board shall be filled by the Governor, and the appointees to fill vacancies shall hold until the next session of the legislature, succeeding their appointments, shall meet, at which time their term of office as vacancy appointees shall cease. *Provided*, however, that nothing in this act shall operate to legislate out of office any commissioner of said Board who has heretofore been appointed and confirmed as such commissioner.

§ 2. COMPENSATION OF MEMBERS OF BOARD.] The compensation of the commissioners of the Board of Charities and Corrections shall be fif-

teen hundred dollars (\$1500) each per annum, and necessary expenses, while performing the duties of their office, not to exceed the sum of two hundred dollars (\$200) each per annum. One of the members of such board shall be elected by the board to be president, and one of the members of such board shall be elected by the board to be Secretary, but no additional compensation shall be allowed to such officers of the board. *Amended Ch 227 1907.*

§ 3. MUST FILE OATH AND BOND—AMOUNT OF BOND.] Before entering upon the discharge of their duties, the said Commissioners of Charities and Corrections shall take and subscribe an official oath, and shall execute a good and sufficient bond in the penal sum of five thousand dollars (\$5000.00) for the faithful performance of their duties, which bond shall be approved by the Governor, the presiding judge of the supreme court and the Attorney General and filed in the office of the Secretary of State.

§ 4. POWERS AND DUTIES.] The said Commissioners shall have full power at all times to look into and examine the condition of the several institutions mentioned in section one of this act, financially or otherwise, to inquire and examine into their methods of instruction and the government and management of their inmates, the official conduct of all officers and employes of the same, the condition of the buildings, grounds and other property connected therewith, and into all other matters pertaining to their usefulness and good management. And for these purposes they shall have free access to the grounds, buildings and all books and papers relating to said institution and all persons now or hereafter in any manner connected with the same are hereby directed and required to give such information and afford such facilities for inspection as the said commissioners may require, and any neglect or refusal on the part of any officer or person connected with such institution to comply with the requirements of this section shall be sufficient cause for the removal of such officer, employe or person from any office or position held by such officer, employe or person, said Board of Charities and Corrections shall in addition to the powers hereinbefore enumerated have all such other and further powers as are now possessed by the present Board of Charities and Corrections, and shall prescribe the method of the management of such institutions, prescribing the manner of keeping the accounts thereof, so that at all times all property belonging to the State at any of said institutions can be readily ascertained from the books and accounts thereof, and shall provide a method of identification for all property belonging to the state in any of said institutions in addition to such accounts.

§ 5. No supplies of any kind shall be purchased for such institutions from any member of said Board or from any officer or employe of any of said institutions, or of any firm or corporation in which such member or officer or employe may be interested, and it shall be unlawful for the State auditor to allow any bills to any member of said board or officer or employe, or corporation or firm in which they may be interested for any supplies of any kind or character for any such institution. It shall be the

duty of such Board to procure the necessary supplies for such institutions in a manner that will be for the best interests of the State.

§ 6. It shall be the duty of said Board at least once in each month, and as much oftener as they may deem necessary, to visit each of said institutions and to ascertain whether the moneys appropriated for their aid and maintenance are or have been economically and judiciously expended, and whether the moneys so appropriated have been expended for the purposes for which they have been appropriated. They shall also ascertain whether the objects of the several institutions are accomplished, whether the laws in relation to them are fully complied with; whether all parts of the state are equally benefitted by said institutions; and all other matters in reference to the conduct and management of such institutions, and may remove the officers thereof at pleasure. They shall report to the Governor for his use and the use of the legislature at the beginning of each regular session of the legislature, the result of their investigations and the matters which come under their observation which may need improvement in the management of such institutions, and shall show in said report whether all moneys appropriated for such institutions have been used for the purposes for which they have been appropriated. And whenever any of said institutions require State aid said commissioners shall inquire carefully and fully into the grounds of such want, the purpose or purposes for which it is proposed and shall estimate the amount required to accomplish the desired object and give to the legislature their own opinions and the result of their investigations on the subject.

§ 7. The Secretary of State shall furnish the said board with all necessary blank books, journals, account books, and stationery necessary for their use as members of such board and the use of such institutions, and all books shall be in such form as the said board may prescribe.

§ 8. COMMISSIONERS NOT TO BE PERSONALLY INTERESTED.] No member of the said board shall be directly or indirectly interested in any contract for building, repairing or furnishing any of said institutions, nor shall any officer or employe of said institution or any of them be interested in any manner in any contract for repairs or improvements upon any of said institutions or in any contract for the furnishing of supplies of any kind or nature, or in the letting of any contract whatever by said Board of Charities and Corrections, nor shall any officer of any of said institutions be eligible to the office of commissioner of said board, and a majority of said commissioners shall not reside in counties in which any of said institutions are located.

§ 9. SECRETARY OF BOARD TO KEEP A RECORD—AUTHENTICATED COPIES.] Said Board shall cause a record to be kept of its proceedings by its secretary or clerk. It shall have power to use an official seal and to alter the same at pleasure, and its proceedings and copies of all papers and documents, in its possession or custody may be authenticated in the usual form, under its official seal and the signature of its president and secretary, which may be used as evidence in all courts and places in this state in like

manner as similar certificates by the secretary of state or any other public officer.

§ 10. **LEGAL INVESTIGATION—DUTY OF ATTORNEY GENERAL.]** If in the affairs (opinion) of said board, or any two members thereof, any matter in regard to the management of any institution under its supervision or any matter in regard to any inmate of any such institution, requires legal investigation or action of any kind, notice thereof may be given by the board, or any two members thereof, to the attorney general, and it shall be his duty thereupon to make inquiry and take such proceedings in the premises as he may deem necessary and proper, and to report his action and the results thereof to the board without delay.

§ 11. In case the members of said board permit or allow any money which is appropriated for one purpose to be used for another purpose in connection with any of said institutions, the members of said board shall be personally liable, and upon their official bonds for the return of all such moneys so appropriated to the State, and upon request of the Governor of the State, it shall be the duty of the attorney general to bring an action against members of such board and their bondsmen for the recovery of the moneys which may at the time be so misappropriated.

§ 12. The said board may at any time prescribe rules and regulations for the discipline and order of any of such institutions and the management thereof, and it shall be the duty of all officers and employes of such institutions to fully comply with all directions or rules or regulations of said Board of Charities and Corrections.

§ 13. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 14. **EMERGENCY.]** Whereas the present laws are inadequate for the management of said institutions an emergency is hereby declared to exist, and this act shall be in force from and after its passage and approval.

Approved February 26, 1903.

CHILDREN.

CHAPTER 87.

(S. B. 141.)

RELATING TO THE ADOPTION OF CHILDREN.

AN ACT entitled an act to amend section 134 of the revised civil code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. **AMENDMENT.]** That Section 134 of the Revised Civil Code of 1903 be and the same is hereby amended so as to read as follows:

FOLIO—7.

Section 134. The person adopting a child and the child adopted and the other persons whose consent is necessary must appear before the county judge of the county where the person adopted resides and the necessary consent must thereupon be signed and an agreement be executed by the person adopting, and filed in the county court, to the effect that the child shall be adopted and treated in all respects as his or her own lawful child should be treated; *Provided*, that all persons whose consent is necessary except the child and the person adopting it may appear by attorney or by any duly authorized agent; *Provided further*, that this act does not apply to societies incorporated under Article 20 of Chapter 3 of Title 2 of part 3 of the Revised Civil Code of 1903, being Sections 747 to 752 inclusive.

§ 2. EMERGENCY.] Whereas, an emergency is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved Feb. 25, 1903.

CHAPTER 88.

(S. B. 221.)

PREVENTING CRUELTY TO CHILDREN.

AN ACT to prevent abuse and cruelty to children.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CHILDREN—CRUELTY TO, PROHIBITED.] It shall be unlawful for any person having the care, custody or control of any child under the age of fourteen years, and for all other persons, to exhibit, use or employ such child either as a mendicant, or peddler, or actor, performer or singer on the streets, or in any concert hall or room where intoxicating liquors are sold or given away, or in any variety theater, or for any illegal obscene, indecent or immoral purpose, exhibition or practice whatsoever, or for any business, exhibition or vocation injurious to the health or morals or dangerous to the life or limb of such child, or cause, procure or encourage such child to engage therein; or wilfully, negligently or unnecessarily to expose, torture, torment, cruelly punish, or wilfully neglect such child or deprive such child of necessary food, clothing, shelter or medical attendance.

§ 2. CIGARETTE—UNLAWFUL TO SELL TO MINOR.] It shall be unlawful for any person to sell, give or furnish to any minor under sixteen years of age, any cigarette, cigarette wrapper, or any substitute for either, or any cigars or tobacco in any form.

§ 3. VIOLATION—PUNISHMENT OF.] Any person or persons who shall be convicted of violating any of the provisions of this act shall be fined not to exceed one hundred dollars, or be imprisoned in the county jail not to exceed thirty days, or both, in the discretion of the court; and upon conviction for a second and subsequent offense, shall be fined not to exceed two hundred dollars or be imprisoned in the county jail not to exceed six months.

§ 4. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 5. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 89.

(H. B. III.)

Rep ch 119-1915

AN ACT to regulate the importation of dependent children.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOND.] That before any association or society incorporated in any other state for the purpose of caring for orphan or dependent children shall bring or send any child or children into the State of South Dakota for the purpose of being placed in a family home by adoption or otherwise they shall first file a bond in favor of the State of South Dakota in the penal sum of two thousand dollars (\$2,000) with the treasurer of the county where such child is going to be placed, conditioned that such child has no contagious or incurable disease or has no deformity or is not of feeble mind or of vicious character, and that said association or society will promptly receive and remove from the State of South Dakota such child if it shall become a public charge within a period of five years after being brought into the state. *Provided*, that this act shall not be construed as to prohibit any person residing in South Dakota from receiving and adopting into his family any child or children of relatives from another state.

§ 2. BOND—BY WHOM APPROVED.] Such bond shall be furnished for each and every child and must be signed by at least one resident free holder of the state and must be approved by the board of county commissioners.

§ 3. VIOLATION.] Any agent of any association or society violating the provisions of this act or any person receiving a child in violation of this act shall be deemed guilty of a misdemeanor.

§ 4. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1903.

CITIES AND TOWNS.

CHAPTER 90.

(H. B. 42.)

RELATING TO PUNISHMENT FOR VIOLATION OF THE BY-LAWS AND ORDINANCES IN INCORPORATED TOWNS.

AN ACT entitled an act amending sub-section 19 of section 1438 of the revised political code of 1903 relating to punishment for violations of by-laws and ordinances in incorporated towns.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That sub-section 19 of Section 1438 of the Revised Political Code of 1903, be amended to read as follows:

19. MAY ENACT FINES AND PENALTIES.] To enact fines, penalties and forfeitures for violation of this Article or of any by-laws or ordinances by them established, not exceeding fifty dollars for any one offense, which may be recovered by action in the name of the corporation, but such board may remit the whole or any part of the fine, penalty or forfeiture. *Provided* that the fine assessed for the violation of any ordinance requiring a license shall not be less than the amount required to be paid for such license, although it may exceed the sum of fifty dollars.

Approved February 21, 1903.

CHAPTER 91.

(S. B. 94.)

PROVIDING FOR THE DISSOLUTION OF INCORPORATED CITIES.

AN ACT providing for the dissolution of incorporated cities having a population of less than two hundred and fifty persons.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PETITION FOR DISSOLUTION MUST BE FILED—WHAT TO CONTAIN.] That whenever an incorporated city shall have a population of less than two hundred and fifty persons, the owners of a majority of the real property of such city, both in area and assessed valuation, may petition the circuit court of the county in which such city, is situated for the dis-

solution of the incorporation thereof. Such petition must show the name of the city, the date of its incorporation, the fact that it contains a population of less than two hundred and fifty persons, and that the petitioners are the owners of more than one-half of the real property contained within the corporate limits of such city in area, and of more than one-half of such real property in assessed valuation as shown by the last assessment thereof prior to the making of such petition. Said petition shall be acknowledged by the petitioners in the same manner as is required for the acknowledgment of grants of real property, and there shall be appended to it an affidavit executed by two or more of the petitioners to the effect that the statements contained in it are true. Such petition shall be filed in the office of the clerk of the circuit court of the county in which such city is situated.

§ 2. ORDER TO SHOW CAUSE MUST BE ISSUED.] Upon the filing of a petition as hereinbefore provided, the Circuit Court of the county in which such city is situated, or a judge thereof, shall issue an order to show cause, returnable in not less than ten nor more than thirty days upon the city, why the petition should not be granted. Such order to show cause shall be served upon the mayor of such city in the same manner as provided by law for the service of summons, not less than ten days nor more than thirty days before the return day thereof. Upon the return day of the order to show cause, or upon such day as the hearing thereof may be adjourned to by the court or a judge thereof, the court or judge shall summarily pass upon said petition and upon any answer that may be made thereto. Upon such hearing objections or answers to the petition may be filed on behalf of the city or on behalf of any property owner and tax payer thereof, which objections or answers shall be in writing and shall be verified the same as the petition. The court or judge may upon such hearing take such evidence as the court or judge may deem necessary to a determination of said petition and of the answers or objections thereto.

§ 3. REFEREE TO BE APPOINTED—DUTIES OF.] If upon the hearing upon said petition it appears to the satisfaction of the court or judge that the interests of such city and of its property owners and tax payers require that the incorporation thereof be dissolved, the court shall appoint a referee to make an enumeration of the population of such city and to examine the records of such city and of the county in which the same is situated, to ascertain whether such petition has been executed by persons owning more than one-half of the real property of said city, both in area and in assessed valuation as aforesaid. The court may also refer to such referee any other questions in controversy which may arise upon said petition and upon the answers or objections thereto. Such referee shall with all convenient speed make his report to the court or judge of all matters referred to him as aforesaid, and upon the filing of such report, and upon not less than ten days' notice to the city by service upon its mayor, the court or judge shall consider the report of the referee, and if it appears from such report that the population of such city is less than two hundred and fifty persons, and that such petition has been executed by property owners

owning more than one-half of the real property of such city, both in area and in assessed valuation as aforesaid; and if it further appears to the satisfaction of the court that it is to the best interest of said city and of the property owners thereof that the incorporation thereof be dissolved, the court or judge shall render a judgment adjudging and decreeing the incorporation of such city to be dissolved. The petition and all objections thereto, the report of the referee, and the judgment of dissolution, shall be entered by the clerk of said court upon his judgment record, the same as judgments are entered in civil cases.

§ 4. JUDGMENT OF DISSOLUTION—WHERE FILED.] A copy of the judgment of dissolution, certified by the clerk of the circuit court, shall be filed in the office of the register of deeds in the county in which said city is situated, and in the office of the Secretary of State, and upon the filing of said copies the incorporation of said city shall be deemed to be dissolved and said city shall cease to be a municipal corporation excepting as hereinafter set forth.

§ 5. TIME ALLOWED FOR CLOSING CORPORATE AFFAIRS.] After the entry of the judgment of dissolution the territory comprised in such city shall revert to the jurisdiction and control, and shall become a part of the municipal or other organization of which it would have been a part had the dissolved corporation never existed; and the mayor, city council, and other officers of such city, shall possess no further powers excepting as follows, to-wit: That the mayor, city council and other officers of such city shall remain in office and shall possess all powers necessary to the winding up of the corporate affairs of such city, including the power to levy and collect taxes to pay the municipal indebtedness of such city, and to make all orders necessary for the disposal of the property of such city, and for the proper distribution of the proceeds thereof; all under the direction of the circuit court, provided that the mayor, city council and other officers of such city shall remain in office for such purposes only for the period of six months after the entry of the judgment of dissolution unless the circuit court entering such judgment, or a judge thereof, shall order an extension of such period of six months for the purpose of permitting the corporate affairs of such city to be fully closed.

§ 6. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1903.

CHAPTER 92.

(H. B. 69.)

TOWN ELECTIONS.

AN ACT to amend section 1428, revised political code of 1903, fixing the date of election in incorporated towns.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 1428 of the Revised Political Code of 1903, be and the same is amended to read as follows:

Section 1428. TOWN ELECTIONS—WHEN HELD.] An election for officers of said town after the first election shall be held annually on the third Tuesday of March of each year, and at every such election the preceding board of trustees or any of them shall act as the inspectors thereof.

Approved March 4, 1903.

CHAPTER 93.

(H. B. 199.)

INCORPORATION OF CITIES.

AN ACT to amend section 1409 of the revised political code of 1903, relating to the incorporation of towns as cities.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 1409 of the Revised Political Code of 1903 be and the same is hereby amended to read as follows:

Section 1409. WHAT TOWNS MAY INCORPORATE UNDER THIS ACT.] Any incorporated town in this state, having a population of not less than two hundred and fifty inhabitants, may become incorporated as a city in like manner as in this act provided; but in all such cases the president and trustees of such town shall respectively perform the same duties relative to such a change of organization as is above required to be performed by the mayor and council of cities.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. Whereas, an emergency exists, this act shall take effect from and after its passage and approval.

Approved March 4, 1903.

CHAPTER 94.

(S. B. 111.)

RELATING TO THE POWER OF THE BOARD OF TRUSTEES IN INCORPORATED TOWNS.

AN ACT extending and enlarging the power of the board of trustees in incorporated towns.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. POWERS OF BOARD.] That the board of trustees in an incorporated town shall have power:

1. To establish and erect a town jail for the confinement of disorderly persons and persons convicted of violating any town ordinance.

2. To license, regulate and prohibit all places of public amusement, pool and billiard rooms, temperance saloons, ball alleys and pin alleys.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists, and is hereby declared to exist, this act shall be in force from and after the date of its passage and approval.

Approved, February 28, 1903.

CHAPTER 95.

(S. B. 196.)

RELATING TO THE APPOINTMENT OF A CITY ASSESSOR.

AN ACT entitled an act relating to the appointment of a city assessor, in case of a vacancy occurring by death, resignation or otherwise.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. VACANCY—HOW FILLED.] That in all cities in case of a vacancy of the office of city assessor, occurring by death, resignation or otherwise, the mayor with the approval of the city council shall fill the vacancy until the next annual election, or until his successor is elected and qualified.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 96.

(H. B. 200.)

FIRE LIMITS IN INCORPORATED TOWNS.

AN ACT to authorize the boards of trustees of incorporated towns within this state to establish fire limits, and to provide the limits within which wooden buildings may be built.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. TOWN BOARD PROVIDE FIRE LIMITS.] The board of trustees of the incorporated towns within this state shall have the following powers in addition to those now conferred by law upon them, to-wit:

1. To prescribe the limits within which wooden buildings shall not be erected or placed or repaired without permission, and to direct that any and all buildings within said limits (which shall be known as the fire limits) when the same shall have been damaged by fire, decay or otherwise, to the extent of fifty per cent of the value, shall be torn down or removed, and to prescribe the manner of ascertaining such damage.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in full force, virtue and effect from and after its passage and approval.

Approved March 4, 1903.

CONSTITUTION.

CHAPTER 97.

(H. J. R. 3.)

PROPOSING AN AMENDMENT TO THE CONSTITUTION.

A JOINT RESOLUTION proposing and agreeing to an amendment to the constitution of the state of South Dakota and submitting the same to a vote of the people.

Be it Resolved by the House of Representatives of the State of South Dakota, the Senate Concurring:

§ 1. AMENDMENT SUBMITTED.] That at the next general election in this state, the following proposed amendment to the constitution of the

State of South Dakota which is hereby agreed to, shall be submitted to the electors of this state for their approval, which amendment when approved and ratified shall become a part of the constitution as Article Twenty-Nine thereof :

ARTICLE 29. The attorney general shall receive the same annual salary as is received by the other state officers as enumerated in Article 4, Section 12, of this constitution.

CHAPTER 98.

(S. J. R. 1.)

PROPOSING AN AMENDMENT TO THE CONSTITUTION.

A JOINT RESOLUTION proposing and agreeing to an amendment to article twenty of the constitution of the state of south Dakota, entitled "Seat of Government," and submitting same to a vote of the people.

Be it Resolved by the Senate of the State of South Dakota, the House of Representatives concurring :

§ 1. AMENDMENT SUBMITTED.] That at the next general election in this state the following proposed amendment to Article Twenty of the Constitution of the State of South Dakota, which is hereby agreed to, shall be submitted to the electors of this state for their approval.

That Article Twenty of the Constitution be amended so as to read as follows :

"Article XX. Section 1. The permanent seat of government of the State of South Dakota is hereby located at the City of Mitchell in the county of Davison.

§ 2. SELF-EXECUTING.] This article shall be self-executing and in full force and effect from and after 12 o'clock M. on the Fifteenth day of December, A. D., 1904."

CHAPTER 99.

(H. J. R. 1.)

A JOINT RESOLUTION Proposing and agreeing to an amendment to section 11 of article 8 of the constitution of the State of South Dakota and submitting such amendment to the vote of the people.

Be it Resolved by the House of Representatives, of the Legislature of the State of South Dakota, the Senate Concurring:

§ 1. That Section 11 of Article 8 of the Constitution of the State of South Dakota be amended so as to read as follows:

§ 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this state, as hereinafter provided, or in bonds of school corporations within this state, or in bonds of the United States or of the State of South Dakota or of any organized county, township or incorporated city in said state. The legislature shall provide by law the method of determining the amount of said funds, which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, or in bonds of organized counties, townships or incorporated cities within this state, shall for such purpose be divided among the organized counties of the state in proportion to population as nearly as provisions by law to secure continuous investment may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned: and in case of loss of any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, counties, township or cities, or in first mortgages upon good improved farm lands within their limits respectively. The amount of each loan shall not exceed one-third of the actual value of the lands covered by the mortgage, given to secure the same, such value to be determined by the board of county commissioners of the county in which the land is situated and in no case shall more than five thousand (\$5,000) dollars be loaned to any one person, firm or corporation and the rate of interest shall not be less than five per cent per annum and shall be such other and higher rate as the legislature may provide and shall be payable semi-annually on the first day of January and July; *provided*, that whenever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant, thereto, the said sum may be returned to the state treasurer to be entrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the auditor of state, and at the same time pay to or account to the state treasurer for the interest due on all funds intrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of five per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the state treasurer of interest at the rate provided by law for such loans, except only said one per centum, and in no case shall the interest, so to be paid be less than five per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

§ 2. That the foregoing proposed amendment is hereby agreed to and is hereby submitted to a vote of the electors of the state, at the next general election, for their approval.

CHAPTER 100.

(S. B. 126.)

RELATING TO CANVASS OF VOTES UPON PROPOSED AMENDMENTS TO THE CONSTITUTION.

AN ACT relating to the canvass of votes upon proposed amendments to the constitution.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. VOTES—HOW CANVASSED.] The votes upon proposed amendments to the constitution shall be canvassed and returned by the judges of election at the same time and in the same manner as are the votes for state officers; such votes shall be canvassed by the same county and state canvassing boards, at the same time and in the same manner as are the votes for state officers; the county abstracts of such votes shall be on the same sheet as the abstracts of votes for state officers; and an abstract of such votes shall be made by the state board of canvassers and recorded by the secretary of state at the same time and in the same manner as is the abstract of votes cast for state officers.

Approved February 18, 1903.

COUNTIES.

CHAPTER 101.

(H. B. 253.)

RELATING TO THE BOUNDARY LINE BETWEEN THE COUNTIES OF PENNINGTON AND MEADE.

AN ACT changing and defining the boundary line between the counties of Pennington and Meade.

Be it enacted by the Legislature of the State of South Dakota:

§ 1. SUBMITTED TO VOTERS.] At the general election in 1904 the question of changing and defining the boundary line between the county of Pennington and the County of Meade, as hereinafter provided in this act, shall be submitted to the voters of the said counties of Pennington and Meade, and if a majority of the votes cast in each of the said counties shall be in favor of changing and defining the boundary line between the said county of Pennington and the County of Meade, as in this act hereinafter provided, then the boundary line between the said counties shall be made as in this act hereinafter provided.

§ 2. COUNTY COMMISSIONERS TO GIVE NOTICE OF ELECTION.] The Board of County Commissioners of each of the counties of Pennington and Meade at the said general election in 1904, shall give due notice that the question of changing the boundary line between the said counties will be submitted to the voters of the said counties, and the said notice shall contain a description of the boundary line as in this act hereinafter prescribed, and the proposition shall be submitted to the voters in substantially the following form: "Shall the boundary line between the county of Pennington and the county of Meade be changed as described in this act?" giving in said notice the title and date of approval of this act.

§ 3. BOUNDARIES GIVEN.] If at the said election a majority of the voters of the counties of Pennington and Meade, shall vote for a change in the boundary line between the said counties, then the boundary line shall be as follows: to-wit: The boundary line between the Counties of Pennington and Meade, the same being a part of the north boundary of the County of Pennington and a part of the south boundary of the County of Meade, shall be as follows: Commencing at the south east corner of Section 12, town two, north range 5, east Black Hills meridian, and running then east on the line between section 7 and 18, 8 and 17, 9 and 16, 10 and 15, 11 and 14, 12 and 13 in said township 2 north and through ranges 6, 7, 8, 9, 10, 11, 12, 13 and through range 14 to the intersection of the

line between sections 11 and 14 of said range with the center of the Cheyenne River.

§ 4. RECORDS TO BE KEPT.] If the boundary line between the said counties be changed as in this act provided, then all records pertaining to the land effected by the change of the said boundary line may be transcribed by the register of deeds of the county where the land is now situated, and may be recorded by the register of deeds in the county where the land shall be embraced after the change of the boundary line, and the register of deeds of the latter county shall index all deeds or other instruments now by law required to be indexed in the proper index book of the county in which the land shall be embraced after the change in the boundary line, with proper reference to the books where such instruments may have been recorded.

§ 5. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1903.

CHAPTER 102.

(S. B. 157.)

Am ch 76-1905
" " " " 110-1913

RELATING TO COUNTY BOARDS OF HEALTH.

AN ACT entitled an act to amend section 252, article 6, subdivision 11 of chapter 4 of the revised political code of 1903, relating to the compensation of the president and superintendent of county boards of health.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] Section 252 of Article 6 of subdivision 11 of Chapter 4 of the Revised Political Code of 1903, is hereby amended so as to read as follows:

[Section 252.] The president of the county board of health shall receive no other compensation than that which is provided for; he shall receive five cents for every mile actually and necessarily traveled in the performance of his duties as a member of such board. The superintendent of the county board of health shall receive ten cents per mile for every mile actually and necessarily traveled in the performance of his duties, which mileage shall be in lieu of all compensation for traveling expenses that said superintendent shall receive, and said superintendent shall receive such other sum or sums as the commissioners may allow, not to exceed the sum of one hundred dollars in any one year, and he shall receive such other sum or sums as he may necessarily pay or become liable to pay for medicine, chemicals, drugs or appliances in carrying out and performing the various duties imposed upon him under the provisions of this article, or by the county board of health, all of which accounts for services, mileage and other expenses, shall be audited by the county board of

health and certified to by the county commissioners of the county and paid as other county expenses.

§ 2. EMERGENCY.] *Whereas*, an emergency is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval,

Approved March 10, 1903.

COUNTY COMMISSIONERS.

CHAPTER 103.

(H. B. 26.)

COMPENSATION OF COUNTY COMMISSIONERS.

AN ACT, to amend section 1841 of chapter 18 of the revised political code of 1903, relating to the compensation of county commissioners. *am ch 147 '09*

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 1841 of Chapter 18 of the Revised Political Code of 1903, be amended to read as follows, viz:

Section 1841. SALARY.] County Commissioners shall each be allowed for the time they shall necessarily be employed in the duties of their office the sum of four dollars per day, and five cents per mile for the distance actually traveled in attending the meetings of the board and when engaged in other official duties to be paid out of the general county fund.

Provided, however, that no county commissioner shall receive more than two hundred dollars as per diem, nor more than forty dollars as mileage, during any one year.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved, February 20, 1903.

COUNTY OFFICERS.

CHAPTER 104.

Ch 104 Sec 1
100-NW 437

(H. B. 96.)

PROVIDING FOR THE MANNER OF DETERMINING THE POPULATION OF COUNTIES FOR BASIS OF DETERMINING SALARIES OF COUNTY OFFICERS.

AN ACT establishing the manner of determining the population of the several counties of the state in all cases where such population is used as the basis or part of the basis of determining the salary of any or all county officers, and prescribing the duty of certain county officers in relation thereto.

Be it Enacted by the Legislature of the State of South Dakota:

*Am Ch 104
Jan 1911*

§ 1. DUTY OF AUDITOR.] It shall be the duty of the County Auditor of the several organized counties of the state to file his certificate under the seal of his office with the clerk of the Circuit and County Courts of the county, immediately after the taking effect of this act, and thereafter on or before the 31st day of December, following each general election, which certificate shall show the population of such county, and which shall, for the purposes of this act, be conclusive of such population and shall be determined in the following manner: He shall ascertain the total sum of the names contained in the entire registration lists of the several voting precincts of the county filed in his office immediately prior to the last general election and shall multiply this sum by five and the product thereof shall be conclusively deemed to be the population of such county, in all cases where such population is, or shall be used as the basis or part of the basis in determining the salary of any and all county officers.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. Whereas, an emergency is declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1903.

CORPORATIONS.

CHAPTER 105

(S. B. 191.)

Am Chap 106-1907

PROVIDING FOR THE EXTENSION OF CORPORATION CHARTERS.

AN ACT to provide for the extension of corporation charters.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. MAY EXTEND CORPORATION EXISTENCE.] Any corporation existing under the laws of this state may, at any time within one year next previous to the expiration of the period for which it was incorporated, extend its corporate existence for a period of not more than the period allowed by law for like corporations from the expiration of the period named in its articles of incorporation in the manner hereinafter provided.

Such corporation shall make application to the secretary of state for an extension of its term of existence, for a term not exceeding the period of existence allowed by law. Said application must be signed by the stockholders owning two-thirds of the capital stock of said corporation and opposite the signature of each stockholder shall be set the number of shares of stock owned by each.

Such application shall be acknowledged in the same manner as articles of incorporation.

Such corporation shall also file with the secretary of state, a statement to be verified by oath of the president and secretary of the corporation setting forth:

1. The assets and liabilities of the corporation.
2. The nature of its business.
3. The number of shares of stock issued and outstanding.
4. The number of shares of stock subscribed and not issued.
5. The name and postoffice address of each stockholder, and the number of shares owned by each.
6. The names and postoffice addresses of the directors.

Upon the filing of the papers designated in this act, and upon payment to him by said corporation of the fee provided by law for filing of articles of incorporation and issuing of charter thereon, the secretary of state shall, if he is satisfied that said corporation is solvent and conducting a lawful business, issue to said corporation a certificate under the seal of the state, stating the period of extension that has been granted, and that said corporation has complied with the requirements of this act, and thereupon the corporate existence of said corporation shall be extended for the period named in such certificate and said corporation shall continue to be in all

respects the same corporation that it was under its original incorporation, with the same privileges and immunities and subject to the same liabilities and restrictions except that it shall thereafter be subject to the provisions of the state constitution.

Approved March 5, 1903.

CHAPTER 106.

(S. B. 192.)

PROVIDING FOR AMENDING ARTICLES OF INCORPORATION.

AN ACT providing for amending articles of incorporation.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ARTICLES MAY BE AMENDED.] That any private corporation incorporated under the laws of the Territory of Dakota, or State of South Dakota or that may hereafter be incorporated under the laws of the State of South Dakota, may amend its articles of incorporation so as to modify or enlarge its business or purposes, change the number of its directors, change its name or location within this state, or the location of its business office without the state, increase or diminish its capital stock, or provide anything which might have been provided originally in such articles of incorporation in the manner hereinafter provided.

§ 2. AMENDMENT—HOW ADOPTED.] Such amendment or amendments may be made at any annual meeting of the stockholders, or at any special meeting called for that purpose, by a vote of the stockholders representing a two thirds majority of all outstanding stock, after thirty days' notice in writing, given to each stockholder, stating the time and place of such meeting, and stating the proposed amendment or amendments to the articles of incorporation which will be voted on at such general or special meeting of said corporation.

Provided, that to increase the capital stock of any such corporation a notice of sixty (60) days shall be given.

§ 3. DIMINISHING CAPITAL STOCK—RELIGIOUS, EDUCATIONAL AND BENEVOLENT CORPORATIONS MAY AMEND—HOW.] The capital stock must in no case be diminished to an amount less than the indebtedness of the corporation, or the estimated cost of the works which it may be the purpose of the corporation to construct.

Provided, further, that religious, educational and benevolent corporations organized under the laws of the Territory of Dakota, or State of South Dakota, may amend their articles of incorporation at any meeting of

*Amended
22-1915*

their trustees, regularly called, in such particulars as such trustees may deem necessary for the better accomplishment of the objects for which said corporations were created, and may also increase or decrease their number of trustees: *provided*, that such amendments shall not in any way impair the obligation of existing contracts and may be made at any meeting of the board of trustees of such religious, educational or benevolent corporation, upon notice to each member of such board of trustees of the proposed amendment and the time when said amendment will be considered.

§ 4. DUTIES OF PRESIDENT AND SECRETARY.] The president or [and] secretary of the corporation shall prepare in duplicate a certificate, properly setting forth the amendment or amendments when adopted in the manner provided in this act and said certificate shall also state the number of votes cast for said amendment and the total number of shares of capital stock subscribed and outstanding also that legal notice as provided herein had been given, and file one of said certificates with the secretary of state and the other with the secretary of said corporation.

§ 5. SIGNATURES MUST BE ACKNOWLEDGED.] The signatures of the said president and secretary to such certificate must be acknowledged before some officer authorized to take acknowledgments, who knows that the parties signing the same to be the president and secretary of such corporation.-

§ 6. DUTY OF SECRETARY OF STATE.] When such certificate is filed with the Secretary of State, he shall issue a certificate of amendment setting forth that the provisions of this act have been complied with and such certificate shall state in what particular the original articles of incorporation have been amended by said corporation.

§ 7. No amendment shall take effect or be in force until all the requirements of this act have been complied with.

§ 8. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 5, 1903.

CHAPTER 107. 13124 W 504

ELECTRIC LIGHT, STREET RAILWAY AND POWER COMPANIES.

(H. B. 163.)

AN ACT to authorize the incorporation of electric light, street railways, and power companies in this state and the acquisition of property thereby by eminent domain.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CORPORATION CAN BE FORMED.] Any number of persons, not less than three, may form a corporation for the purpose of constructing,

*in chs 2
law 89*
maintaining and operating a street railway or railways to be operated by electric or other mechanical power, for public use in the conveyance and carriage of persons or property, or for the purpose of operating or maintaining any railroad now or hereinafter [hereafter] constructed for the like public use, by making and executing articles of incorporation in which shall be staed :

1. The name of the corporation and the place where its principal business is to be transacted.

2. The places to and from which the said street railway is intended to be constructed or maintained and operated as the case may be.

3. The approximate length of such railroad and the name of each county in this state into which it is or is intended to be constructed.

4. The amount of the capital stock of the corporation; the number of shares of which it shall consist, and if its stock shall consist of common and preferred stock, the number and amount of the shares of each class.

5. The names and residences of the directors of the corporation who shall manage its affairs for the first year and until their successors are elected who shall be not less than three in number, and each of such directors shall subscribe to said articles of incorporation his or her name, place of residence and the number of shares he or she agrees to subscribe for in said corporation. There shall be annexed to the said articles of incorporation an affidavit signed by at least three of the incorporators therein setting forth that the signatures thereto are genuine and that it is intended in good faith to construct or maintain and operate the street railway or railways or electric lighting and power plants therein referred to, and thereupon said articles shall be filed in the office of the secretary of state who shall [indorse] thereon the date thereof, and record the same in a book to be kept by him for that purpose. The secretary of state shall be entitled to the same fees as is provided by law for the filing and recording of articles of incorporation in this state; like fees shall be paid for the amendment at any time of the original articles. Upon the filing and recording of said articles of incorporation a certificate shall issue to the said corporation under the seal of this state signed by the secretary of state, granting unto the said incorporators, their associates, successors and assigns full power and authority by and under their said corporate name to exercise the powers and privileges of a corporation for the purposes above stated and in accordance with their said articles of incorporation and the laws of this state.

§ 2. POWERS OF.] Upon the issue of said certificate the subscribers to said articles of incorporation and all persons who shall thereafter become stockholders in said corporation shall be a corporation by the name specified in said articles and shall possess all the powers and be subject to all the provisions of the law relating to street railways and electric light and power companies and the provisions of this act applicable thereto.

§ 3. SUBSCRIPTION OF CAPITAL STOCK.] When such certificate is issued, the directors of said corporation may, in case the whole of the capital stock shall not have been before subscribed, open books of subscrip-

tion to fill up the capital stock at such places and upon such notice as they may deem expedient, and may from time to time receive subscriptions until the whole of the capital stock is subscribed.

§ 4. BOARD OF DIRECTORS—DUTIES OF.] There shall be a board of not less than three directors and such greater number as the articles of incorporation shall designate to manage the affairs of said corporation, who shall be elected at such time, in such manner and for such terms as shall be prescribed by its by-laws and shall hold their office until their respective successors shall be chosen. In the election of directors and at all corporate meetings, each stockholder shall be entitled to one vote in person or by proxy for each share of stock owned by him. Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws. No person shall be a director of said corporation unless he is a stockholder thereof owning absolutely in his own right or as trustee or personal representative, at least ten shares of the capital stock of said corporation and must be duly qualified to vote said stock at the election at which he shall be chosen. The books, records and papers of said corporation shall be exhibited to its stockholders at every stockholders meeting, if a majority of those present require it. If, for any reason, the election of directors shall not be held at the time fixed therefor, the same may be held at any time thereafter on twenty days' notice. Such meeting may be called by a majority of the directors or stockholders, but at any meeting at which all the stockholders shall be present or represented it shall be lawful to waive notice and proceed to the election of directors or the transaction of any other corporate business.

§ 5. OFFICERS.] The directors shall appoint from among their number a president, and vice president; they may also appoint a secretary, treasurer and such other officers or agents as is prescribed by the by-laws. The directors may require any amounts unpaid upon the capital stock to be paid in such manner, at such times and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment of such capital stock as is required by a resolution of the board of directors and the said board shall have caused a notice to be served upon [such] stockholders personally, or by depositing the same in the postoffice directed to such stockholder at his or her usual and nearest post office address at least thirty days before the day on which such payment is required to be made, stating that the said stockholder is required to make such payment at the time and place in the said notice specified and that if he fails to do so, such stock and all payments previously made thereon, will be forfeited to the use of the corporation, such board of directors may, by resolution, declare such stock and all payments forfeited for the use of the corporation and the same shall thereupon be forfeited and the title thereto shall revert in the corporation, or such board may, at its option, enforce payment of the installments due on said shares of the capital stock in the manner provided by law.

§ 6. SHARES OF STOCK.] The stock of every such corporation shall be deemed personal property and shall be transferable in the manner pre-

scribed by its by-laws, but no shares shall be transferable until all previous calls and assessments thereon shall have been fully paid. No person holding stock in any such corporation as executor, administrator, guardian or trustee and no person holding such stock as collateral security shall be liable as stockholders of said corporation for any calls or installments on any partially paid up stock thereof; but the person pledging such stock shall be considered as holding the same and shall be liable as a stockholder accordingly; and the estate and funds in the hands of such personal representatives, guardians or trustees shall be liable to the same extent as the decedent, ward, or other person interested would have been if living or competent to act and held stock in his own name.

§ 7. CAPITAL MAY BE INCREASED.] The capital stock of said corporation may be increased to such an amount as may be by its stockholders be deemed necessary for the construction or operation of its railways or in the increase of its lighting capacity or power, by the vote of the owners of sixty per cent or six-tenths of its capital stock at any annual meeting or at any special meeting called for that purpose. In case of a special meeting written notice shall be given to each stockholder, either by serving the same personally or by depositing the same in the postoffice, postage prepaid, directed to such stockholder at his usual postoffice address not less than twenty days prior to such meeting; such notice shall state the time and place of such meeting, its object and the amount it is proposed to increase said capital stock. Such notice shall not be necessary if all of the stockholders of said corporation shall waive notice thereof in writing and the amount of such capital stock may be increased without such meeting, if the owners of three-fourths of the capital stock of any such corporation shall, in writing to be filed and recorded in the records of such corporation, consent thereto.

*Am d. 1857
laws '09*
§ 8. FURTHER POWERS.] Every corporation organized under this act shall in addition to the powers conferred upon corporations under the laws of this state, have power:

(1) To cause such examinations and surveys to be made as may be necessary to the selection of the most advantageous route for its proposed street railroad and for such purpose to enter, by its agents, officers and servants upon the lands or waters of any person subject, however, to responsibility for all damages done to said property by such entry.

(2) To erect and maintain such buildings, power houses, plants, poles, wires, trolleys and appliances as may be necessary for the transmission of electric power and use the same to operate its street railway and to contract with any person or corporation for the furnishing to such person or corporation of electric lights or power for the operation of farm or other machinery: to contract with any city, town, village or county for the lighting of its streets, highways and public buildings, and to contract with any municipal corporation for the furnishing of its inhabitants with electric light and power.

(3) To take and hold such voluntary grants of real estate and other property as may be made to it to aid in the construction, maintenance and

accommodation of its railways, power or lighting plants, but the real estate received by voluntary grant shall be held and used for the purpose of such grant only.

(4) To acquire by purchase or under the provisions of this act all such real and other property as may be necessary for the operation of its railway, power and lighting plants and grounds and accommodation reasonably necessary to accomplish the objects of its incorporation; to hold and use the same; to lease, sell or otherwise dispose of any part or parcel when not required and no longer necessary for its use.

(5) To lay out its road not exceeding fifty feet in width and construct the same and for such purpose to obtain gravel or other material for its cuttings and embankments; to take so much land as may be necessary for the construction, operation and safety of its road; to construct its road along or across any stream of water, river, water course, highway, street or turnpike which it may touch or intersect; to carry any highway, street or road which it shall cross over or under its track as may be most expedient for the public safety and welfare; to change the course of any highway, street or road when made necessary or desirable to secure a more easy descent or ascent by reason of any cut or embankment made in the construction of its railroad and to take so much land as shall be necessary therefor. *Provided, however,* that such change in the course of any street road or highway shall be made at the expense of such corporation and without expense to the town, city or village wherein such change is made.

(6) To cross, join or unite its railroad with any street or other railroad now or hereafter constructed and to contract with such railroad for the transportation of its cars over its lines; to take and convey persons or property over its railroad by electrical or mechanical power, and to receive compensation therefor; to erect and maintain all necessary and convenient buildings, station power houses, trolley poles, repair shops, car barns, wires fixtures and machinery for the accommodation and use of its passengers, freight and other business and the transmission of electric power.

(7) To regulate the time and manner in which passengers and property shall be transported and the compensation to be paid therefor, but in so doing, no preference, advantage or monopoly shall be given to any person, company or corporation doing business with it or doing business at more than one point along the line of its road.

(9) Any such corporation may exercise all its rights, franchises and privileges in any other state of the United States and may accept from any other state into which its railroad is extended additional and other powers and privileges applicable to the business of said corporation in such territory.

§ 10. USE OF STREETS, HIGHWAYS AND BRIDGES MAY BE GRANTED.] Any municipal corporation or county may grant to any such corporation upon such terms as the proper authorities thereof shall determine, the use of any streets, highways, turnpikes or bridges within its limits for the purpose of laying single or double tracks and running cars thereon for the carriage of freight and passengers to be propelled by electric, animal or

mechanical power with all the necessary turnouts, curves, switches and other conveniences with the right to erect trolley poles, wires and other conveniences for the transmission of electric power and the laying and operation of said railroad along said highway shall not be held to be an additional burden thereon. Every such railroad constructed and operated upon any public street or highway, shall be constructed upon the most approved plan and be subject to such reasonable rules and regulations as the proper authorities may, from time to time prescribe and shall be so laid and operated as not to obstruct public travel therein; its rails shall be laid flush with the surface of the street or highway and shall not be permitted to project above the same; that portion of the street or roadway between its tracks and for one foot from the outer edge thereof shall be kept in repair and condition by the said corporation and at its own expense.

*Mich 152
and 09*
§ 11. MAY ACQUIRE REAL AND PERSONAL PROPERTY.] Any such corporation may acquire by purchase, grant or condemnation and hold and use such real estate and other property as may be necessary for the construction and operation of its business, including power houses, car barns, stations, machine and repair shops and other conveniences reasonably necessary to accomplish the objects of its incorporation. All the provisions of the statutes of this state relating to the exercise of the right of eminent domain by railroad corporations shall apply to the corporation authorized by this act, *provided*, that nothing herein contained shall be held to apply to any public park or boulevard in any city or village. *131 NW 504*

§ 12. MAY HOLD STOCK IN OTHER CORPORATIONS.] Any such corporation may purchase, take and hold all or any part of the property, rights, privileges and franchises of any other corporation, foreign or domestic now or hereafter organized for the purpose of operating any street railway by electric power or for the purpose of manufacturing, creating or generating electricity for power, light, heat or any other purpose and may take and hold stock and in its corporate capacity become a subscriber to the capital stock of any street railway or electrical corporation or corporations whenever authorized to do so by a vote of a majority in value of its stockholders at its annual meeting, or at any special meeting held for that purpose, after notice, as provided for in section 7 of this act. The consideration for such purpose may be paid for in stock or bonds of the purchasing company; or the sale and conveyance of its property and franchises. The electrical power so acquired may be sold or leased by the purchasing company for power, light, heat or other purposes to any person or corporation and said corporation may accept and hold in payment therefor the stock or bonds, or both, of any corporation to which the same is furnished.

*Mich 152
and 09*
§ 13. EXTENSION.] Any such corporation may extend its railroad from any point named in its charter or articles of incorporation and may build branch lines either from any point on its line or from any point on the line of any other railroad connecting or to be connected with its line of road. Before such extension is made, such corporation shall, by resolution of its directors, to be entered in the record of its proceedings, des-

ignite the route of such proposed branch and extension and file a copy of such record certified by its president and secretary with the secretary of state and cause the same to be recorded. Thereupon such corporation shall have all the rights and privileges to make such extension and receive aid therefor which it would have had if such branch or extension had been authorized in its original certificate.

§ 14. BRANCHES OR SPURS.] Every such corporation may build and maintain and operate branch or spur tracks from its main line or any branch thereof to and upon the grounds of any mill, elevator, storehouse, warehouse or manufacturing establishment with tracks, switches and such turnouts as may be convenient or necessary and may acquire its right of way for such spur tracks by grant, purchase or condemnation as hereinbefore provided. The provision of the next preceding section shall not apply to or effect the provision of this section if the branches and spur tracks herein mentioned do not exceed two miles in length from the line of said railroad. *Amended by Laws 1890*

§ 15. CONSOLIDATION.] Any such corporation may consolidate its stock, franchises and property with any other street railway, electric light or power company within or without this state when their respective railroads can be connected or operated together so as to form one continuous line, upon such terms as may be agreed upon and become one corporation by any name selected, which corporation so formed shall, within this state, possess all the powers, franchises and immunities including the right of further consolidation or amalgamation by the laws applicable thereto. Articles stating the terms of consolidation shall be approved by each corporation by a vote of the stockholders holding a majority of the stock at a regular meeting thereof or at a special meeting called for that purpose or by the written consent of such stockholders, annexed to such articles, a copy of which together with a copy of such approval or consent duly certified by the respective presidents and secretaries of said corporations with their respective corporate seals affixed shall be filed for record in the office of the secretary of state before said corporation shall have any validity or effect and the secretary of state shall thereupon issue to said consolidated corporation under the name selected, a certificate under the seal of the state, setting forth the fact of said consolidation and that the same was made in conformity to law.

§ 16. MAY BORROW MONEY.] Any corporation organized under the provisions of this act may, from time to time, borrow such sums of money at such rates of interest upon such terms as the corporation or board of directors shall agree and authorize and shall have power to execute trust deeds or mortgages, or both, as occasion may require, on any railroads or part thereof constructed or in process of construction, for any amounts borrowed or owing by the corporation and therein to make provision, granting, transferring or mortgaging their railroad tracks, right of way, power houses, shops, barns, depot grounds, rights, franchises, exemptions, rolling stock, furniture, tools, equipment and appurtenances, used in connection with the business of said corporation in any manner, whatever,

then belonging to the said corporation, or which it may thereafter acquire as security for any bonds or evidences of debt therein mentioned in such manner as the corporation or its directors shall think proper and shall by resolution direct, and such instrument shall fully convey the same as therein described. In case of a judicial sale by virtue of any such trust deed or mortgage any person or any other corporation organized under the provisions of this act may become the purchaser thereat and the persons or corporation acquiring title under such sale, their associates, successors or assigns shall thereafter have, exercise and enjoy, all the rights, powers, franchises and advantages which were possessed by said corporation making the same or contracting the debt as fully and absolutely as said corporation, its officers or agents might have done had said sale not taken place.

Said mortgage or trust deed shall be filed and recorded in the office of the secretary of state of this state and the filing and recording thereof in the said office of the secretary of state, shall create a lien upon the said property, real and personal to the same extent as if the mortgages were recorded in the county where the real estate of said corporation is situate and as if said trust deed or mortgage was filed or recorded in the manner provided by law for the recording of chattel mortgages in the cities, villages townships or counties where said personal property is situate.

§ 17. REPEAL.] All acts and parts of acts inconsistent herewith are hereby repealed. This act shall take immediate effect.

§ 18. An emergency is hereby declared and this act shall take effect from and after its passage and approval.

Approved March 12. 1903.

COURTS.

CHAPTER 108.

(S. B. 232.)

COURT IN THIRD CIRCUIT.

AN ACT to amend section 2 of chapter 98 of the session laws of 1901, fixing the time for holding terms of court in the third judicial district [circuit].

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 2 of chapter 98 of the session laws of South Dakota for the year 1901 be, and the same is hereby, amended so as to read as follows:

Section 2. TERMS OF COURT—WHEN HELD.] The circuit court with in and for the third judicial circuit in the State of South Dakota shall annually hold regular terms of court in each of the counties comprising said circuit as follows: Brookings county on the second Tuesday in January and the third Tuesday in June; Hamlin county on the second Tuesday in March and the second Tuesday in October; Codington county, on the first Tuesday in May and the second Tuesday in November; Clark county on the third Tuesday in May and the first Tuesday in December; Deuel county on the first Tuesday in June and the third Tuesday in December.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1903.

CHAPTER 109.

(H. B. 10.)

FIXING TERMS OF COURT IN THE FOURTH JUDICIAL CIRCUIT.

AN ACT fixing the terms of court in the Fourth judicial circuit.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. TERMS OF COURT—WHEN HELD.] That terms of circuit court shall be held annually in each of the counties comprising the Fourth Judicial Circuit as follows:

In Miner county on the first Tuesday in January and the fourth Tuesday in May; in Aurora county on the first Tuesday in February and the second Tuesday in October; in Hanson county on the third Tuesday in February and the third Tuesday in November; in Davison county on the fourth Tuesday in April and the second Tuesday in November; in Brule county on the first Tuesday in March and the fourth Tuesday in November; in Sanborn county on the second Tuesday in May and the second Tuesday in December; in Buffalo county on the first Tuesday in June; in Lyman county on the second Tuesday in June; in Jerauld county on the fourth Tuesday in September.

§ 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists, and is hereby declared to exist, this act shall take effect and be in force immediately from and after its passage and approval.

Approved January 21, 1903.

CHAPTER 110.

am ch 110 Laws 99 (S. B. 283.)

See ch 140-1.

FIXING TERMS OF COURT IN FIFTH JUDICIAL CIRCUIT.

AN ACT to amend section 657 of the revised political code of 1903, and designating the counties to comprise the fifth judicial circuit, and fixing the time for holding terms of circuit court therein.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 657 of the Revised Political Code of 1903, be amended to read as follows:

TERMS OF COURT—WHEN HELD.] The fifth judicial circuit shall consist of the counties of Brown, Day, Grant, Marshall and Roberts, and terms of the Circuit Court shall be held in each of such counties as follows:

Brown county on the fourth Tuesday in May and the first Tuesday in December; Marshall County on the first Tuesday in January and the third Tuesday in June; Day County on the fourth Tuesday in January and the second Tuesday in July; Grant county, on the second Tuesday in March and the second Tuesday in November: Roberts county on the third Tuesday in February and the first Tuesday in October.

Approved March 12, 1903.

CHAPTER 111.

(S. B. 59.)

FIXING TERMS OF CIRCUIT COURT IN THE SIXTH JUDICIAL CIRCUIT.

AN ACT fixing the terms of circuit court in the Sixth judicial circuit of this state.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. TERMS OF COURT—WHEN HELD.] The Circuit Court of the Sixth Judicial Circuit in this state, shall, in each year hold terms of court in each of the counties comprising said circuit, as follows:

Hughes county on the second Tuesdays in May and November.

Hyde county, on the fourth Tuesday in November.

Hand county, on the third Tuesdays in April and September.

Sully county, on the first Tuesdays in March and September.

Potter county, on the third Tuesday in October and fourth Tuesday in March.

Edmunds county, on the first Tuesday in June and Second Tuesday in December.

McPherson county, on the second Tuesday in June and third Tuesday in December.

Walworth county, on the second Tuesday in October.

Campbell county, on the first Tuesday in October.

Faulk county, on the Third Tuesday in June and first Monday in December.

Stanley county on the Second Mondays in January and July.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 17, 1903.

CHAPTER 112.

(S. B. 172.)

RELATING TO THE EIGHTH JUDICIAL CIRCUIT.

AN ACT entitled an act to amend Section 660 of the political code of 1903, relating to the Eighth judicial circuit of the State of South Dakota and the terms of court to be held therein.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 660 of the political code of 1903, be amended to read as follows, to-wit:

Section 660. AMENDMENT.] The Eighth Judicial Circuit shall consist of the counties of Lawrence, Meade and Butte, and the terms of the circuit court shall be held in each year in said counties as follows: Lawrence county on the second Tuesdays in February and September; Meade county on the second Tuesday in April and the first Tuesday in November; Butte county on the third Tuesdays in April and November.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 5, 1903.

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CHAPTER 113.

Chap 113
Ch 6 - '05

(H. B. 266)

RELATING TO ADMINISTRATION OF ESTATES.

AN ACT relating to administration of estates.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. COURT OR JUDGE TO GIVE NOTICE OF TIME AND PLACE OF HEARING.] That whenever any person makes and presents to the county court or a judge thereof of any county a verified petition stating and showing the facts essential to give the court jurisdiction of the case and the names, ages and residence of the heirs of the deceased person, and that said deceased person left an estate consisting of real or personal property, or both, or of an interest in real or personal property, or of an allotment of real property under the provisions of the statutes of the United States, and stating and showing further, that all of said real or personal property, or both, or said interest in such real or personal property, is wholly exempt from attachment or other mense [mesne] process, and not liable for the payment of the debts of the deceased, it shall then be the duty of the said county court or a judge thereof, upon being satisfied that the said petition is sufficient, to immediately make and enter an order fixing the time and place for the hearing of said petition and said county court or a judge thereof, shall then forthwith cause notice to be given of the time and place of said hearing, in the same manner provided by law for giving notice of application for letters of administration.

§ 2. REGULAR ADMINISTRATION MAY BE DISPENSED WITH.] That upon the hearing of said petition, if it shall be satisfactorily proved to the court that due notice of the time and place of said hearing has been given as required in section 1 hereof, and that said deceased person left an estate consisting of real or personal property, or both or of an interest in real or personal property, or of an allotment of real property under the provisions of the statutes of the United States, and that the court has jurisdiction of said matter, and if it shall be further satisfactorily proved to the court that all of said real and personal property or interest in such said real or personal property is wholly exempt from execution, attachment or other mense [mesne] process, and not liable for the payment of the debts of the deceased, the court shall then immediately make and enter an order, that the regular administration of said estate be dispensed with, and the administration thereof as provided by the probate code shall thereupon be dispensed with, and the court shall then make and enter its findings of fact, which findings of fact shall show the name of the deceased person; the name of all his heirs at law, a correct description of the property left by said deceased and the character thereof; a correct description and the character of any interest in any real or personal property, left by the de-

ceased, and a correct description of any allotment under the provisions of the statutes of the United States, held by the deceased at the time of his death. And the court shall thereupon make and enter a final decree of distribution of the property, interest in property, or allotment left by said deceased, to the heirs of the said deceased, in the proportion and shares as by the laws of this state provided. Said final decree of distribution shall name and specify all the heirs of said deceased, and shall correctly describe the property, interest in property, or allotment left by the deceased, *provided, however*, that before the making and entering of said final decree of distribution, the expenses of the administration shall first be paid. The said final decree of distribution shall have the same effect, as a final decree of distribution entered in regular probate proceedings.

§ 3. ALLEGATIONS MAY BE CONTESTED.] Any person interested, may upon the hearing as provided for in section 2 hereof, contest the allegations as to such property being wholly exempt from execution attachment or other mense [mesne] process, and not being subject to the payment of the debts of said deceased, and if it should on said hearing appear to the satisfaction of the court, that any of such property or interest in property is not wholly exempt from execution, attachment or other mense [mesne] process, or is subject to the payment of the debts of said deceased, then regular administration of the estate of the said deceased person must be had in the manner provided by the laws of this state.

§ 4. COURT MAY MAKE FINAL DECREE OF DISTRIBUTION.] That in any county court where a petition for the appointment of an administrator has heretofore been filed and presented, if it shall appear to the court that the property left by the deceased is of the character mentioned in section 1 hereof, and is wholly exempt from execution, attachment or other mense [mesne] process, and not liable for the payment of the debts of the deceased, the court may dispense with the regular administration of said estate, and may proceed to make and enter findings of fact, and final decree of distribution as provided in this act.

§ 5. PROCEEDINGS MAY BE REVIEWED BY APPEAL.] All proceedings of the county court under this act may be reviewed by appeal as in other cases.

§ 6. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 7. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

See Bill

*chap 6
Laws 79*

CHAPTER 114.

(H. B. 234.)

CREATING A NINTH JUDICIAL CIRCUIT.

AN ACT creating a ninth judicial circuit and fixing the terms of the circuit court therein.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. JUDICIAL CIRCUIT CREATED.] That a new Judicial Circuit known as the Ninth Judicial Circuit is hereby created and shall consist of the counties of Spink, Beadle, Kingsbury and Miner.

§ 2. TERMS OF COURT—WHEN HELD.] The Circuit Court of the Ninth Judicial Circuit shall annually hold terms of court in each of the counties comprising said circuit as follows: Spink county on the first Tuesday in May and the second Tuesday in November; Beadle county, on the second Tuesday in March and the first Tuesday in September; Kingsbury county on the first Tuesday in June and the third Tuesday in December; Miner county on the second Tuesday in May, and the third Tuesday in October.

§ 3. GOVERNOR TO APPOINT A JUDGE.] Upon the passage and approval of this act the Governor shall appoint a Judge for the Circuit to hold his office until his successor is elected at the next election held for the election of Circuit Judges.

§ 4. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 5. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in force and effect from and after its approval.

Approved March 12, 1903.

CHAPTER 115

(S. B. 145.)

ADMINISTRATION OF ESTATES.

AN ACT to amend section one hundred and twenty-six (126) of the probate code of 1877, being section one hundred and fifty-one (151) of the revised probate code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section one hundred and twenty-six (126) of the Probate Code of 1877, being section one hundred and fifty-

one (151) of the Revised Probate Code of 1903, be and the same is hereby amended so as to read as follows:

Section 126. If the person so cited refuses to appear and submit to an examination, or to answer such interrogatories as may be put to him, touching the matters of the complaint, the court may, by warrant for that purpose, commit him to the county jail, there to remain in close custody until he submits to the order of the court or is discharged according to law. If upon such examination, it appears that he has concealed, embezzled, smuggled, conveyed away, or disposed of any moneys, goods or chattels of the decedent, or that he has in his possession or knowledge any deeds, conveyances, bonds, contracts or other writings tending to disclose the right title, interest or claim of the decedent to any real or personal estate, claim or demand, or any lost will of the decedent, the probate court may make an order requiring such person to disclose his knowledge thereof to the executor or administrator, and may commit him to the county jail, there to remain until the order is complied with, or he is discharged according to law; and all such interrogatories and answers must be in writing signed by the party examined and filed in the probate court. The said interrogatories and answers may be received and read in evidence in any action brought by such executor, administrator or other person, for the recovery of such money, goods or chattels, *provided, however*, that whenever in any such action, such interrogatories and answers are received and read in evidence, said party whose answers are so received and read in evidence, may testify fully as to any matters relating to his or her cause for action or defense, although it involves a transaction with, or statement by, said testator or intestate and any judgment recovered therein in any action now or hereafter pending may include, in addition to the value of such money goods or chattels as punitive damages, a sum not to exceed the value thereof in the discretion of the court or jury. In addition to the examination of the party, witnesses may be produced and examined on either side.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists, this act shall take effect immediately after its passage and approval.

Approved, March 11, 1903.

CHAPTER 116.

(H. B. 204)

RELATING TO PLACES OF HOLDING TERMS OF COUNTY COURT.

AN ACT relating to places of holding terms of county court.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. TERMS OF COURT—WHERE HELD IN CERTAIN CASES.] When any county in this state does not own or cannot procure suitable buildings at the county seat in which the terms of the county court may be held, or where the county seat is located ten miles or more from a railroad station in any county, said terms may be held at any other place in such county located on any line of railroad therein, when suitable buildings and conveniences may be had for the holding of county court without extra expense to such county.

§ 2. DUTY OF COUNTY JUDGE.] The judge of the county court shall designate in the orders and notices for hearings in the several matters coming on to be heard before said court, the place, in said county, having the qualifications mentioned in section one of this act, where court shall be held for the hearing of such matters and said term of court shall be held at said place so named and such orders and notices shall be mandatory upon the officers of said county, and all laws applying to their duties as now fixed by law for the providing for and holding terms of county court shall apply with equal force and effect as though the term was held at the county seat.

§ 3. DUTIES AND POWER OF CLERK.] The clerk of the courts of the counties of this state are hereby authorized to remove from the county seat all books and records of their office to the place designated in such orders, and notices, and to keep the same at such place during the time of holding such term of court.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. EMERGENCY.] Whereas, an emergency exists and is hereby declared to exist, this act shall take effect and be in full force from and after its passage and approval.

Approved February 24, 1903.

CHAPTER 117.

(S. B. 49.)

RELATING TO FILING AND DOCKETING OF JUDGMENTS AND DECREES.

AN ACT authorizing the filing and docketing of judgments and decrees of the circuit and district courts of the United States within the State in the offices of the clerks of the circuit courts of this state.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. JUDGMENTS AND DECREES OF THE UNITED STATES MUST BE FILED.] The clerks of the circuit courts of South Dakota are hereby authorized and required to file and docket in their offices judgments and decrees of the circuit and district courts of the United States within the State of South Dakota, and duly authenticated copies thereof, and transcripts therefrom hereinafter provided, in like manner as judgments and decrees in the circuit courts of this state are filed and docketed.

§ 2. WHEN LIEN ATTACHES.] When such judgments and decrees, or attested copies thereof, or transcripts therefrom containing the facts needed for a docket entry of a judgment or decree of the circuit courts of this state, are filed and docketed as above provided, said judgments and decrees are liens to the same extent as judgments and decrees of the circuit courts of this state.

§ 3. ASSIGNMENT.] Said judgments and decrees of the circuit and district courts of the United States so filed and docketed as aforesaid, may be assigned of record by filing a copy thereof together with the assignment duly authenticated, or a transcript thereof containing the facts needed for a docket entry and the fact of assignment, date thereof and name of assignee, duly authenticated, and the clerk shall note the facts of assignment on the docket.

§ 4. CANCELLATION.] Said judgments and decrees of the circuit and district courts of the United States, so filed and docketed as aforesaid, may be discharged and cancelled of record by filing a copy thereof and of the fact of such discharge or cancellation, duly authenticated, or a transcript therefrom containing the facts needed for a docket entry, and the fact of discharge and cancellation, duly authenticated, and the clerk shall note the fact of such discharge and cancellation on the docket.

§ 5. EMERGENCY.] There being no provision of law authorizing the filing and docketing of judgments and decrees of the circuit and district courts of the United States within the State of South Dakota in the offices of the clerks of the circuit courts of this state, an emergency is hereby declared, to exist and this act shall be in force from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 118.

(S. B. 56.)

RELATING TO ACTIONS.

AN ACT authorizing one or more persons to bring an action against another person or persons for the purpose of determining an adverse claim to money or property and for the purpose of compelling one to satisfy debt due to another for which plaintiff is bound as a surety.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACTION MAY BE BROUGHT.] That an action may be brought by one person against another, for the purpose of determining an adverse claim, which the latter makes against the former, for money or property upon an alleged obligation. also against two or more persons for the purpose of compelling one to satisfy a debt due to the other, for which plaintiff is bound as a surety.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. There being no law upon this subject in this state, an emergency is hereby declared to exist, and this act shall go into effect and be in force immediately after its passage and approval.

Approved March 11, 1903.

CHAPTER 119.

(H. B. 169.)

PROVIDING FOR THE SERVICE OF SUMMONS. IN ACTIONS AGAINST CERTAIN CORPORATIONS.

AN ACT entitled an act to provide for the service of summons in action against domestic corporations which have ceased to do business and which have no officer within this state upon whom summons may be served.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SERVICE OF SUMMONS ON CERTAIN CORPORATIONS MAY BE MADE BY PUBLICATION—AFFIDAVIT.] That in any action in the circuit court where the subject of the action is real or personal property in this state, in which action the defendant is a domestic corporation which has ceased to do business, and which does not maintain an office for the transaction of business within this state, and the officers of which corporation have departed from and do not reside within this state, or the records of which

corporation cannot be found and the last known officers of said corporation have departed from and do not reside within this state, and which corporation has or claims a lien or interest, actual or contingent in such property, or the relief demanded consists wholly or partly in excluding such corporation from any interest or lien in such property, service of summons may be made upon such defendant corporation by a publication thereof, whenever it shall satisfactorily appear to the court or a judge thereof, by an affidavit made by or on the part of or in the behalf of the plaintiff in said action, that service of the summons in such action cannot be made within this state on such defendant corporation after due and diligent efforts so to do; and that such defendant is a corporation created by or under the laws of this state; and that such corporation has not been dissolved, but that it has ceased to do business, and does not have or maintain any office for the transaction of business or otherwise, within this state and that the officers of said corporation have departed from and do not reside within this state, or that the records of said corporation cannot be found and that the last known officers of said corporation have departed from and do not reside within this state. Which affidavit shall also show the last known postoffice address of, and place where the said corporation last maintained an office in this state while it was a going concern; and which affidavit shall be duly filed in the office of the clerk of such court and presented to the said court or a judge thereof.

§ 2. COMPLAINT MUST BE FILED.] If the court or a judge thereof shall be satisfied of the existence of such facts from said affidavit, the said court or a judge thereof shall make an order that the summons in the action be served on such defendant corporation by a publication thereof for a period of six successive weeks, one publication thereof to be made each week, in a legal newspaper to be designated in said order as most likely to give notice to said defendant corporation, printed and published in the county where such action is pending, if there be any such newspaper printed in such county, and if there be not then in some legal newspaper of general circulation printed and published in this state, and likewise designated as most likely to give notice to said defendant corporation so to be served. The complaint in the action must be filed in the office of the clerk of the circuit court of the county where such action is pending, on or before the day of the first publication of such summons, and the summons as published must state the time and place of the filing of the complaint. Said order must also direct that a copy of the summons and complaint in the action, must be deposited in the United States postoffice, enclosed in a sealed envelope addressed to the defendant corporation at its last known postoffice address as stated in the said affidavit, within five days after the first publication of the summons, and the full postage must be prepaid thereon.

§ 3. SERVICE SHALL BE DEEMED COMPLETE—WHEN.] The plaintiff in said action may immediately after the filing and entry of the said order of court or a judge thereof, in the office of the clerk of the circuit court of the county where said action is pending, proceed to make service on the

said defendant corporation of said summons by publication thereof and by mailing a copy of said summons and complaint in said action as provided and directed in Section 2 hereof. The service so made shall be deemed complete at the expiration of six weeks from the date of the first publication of said summons.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. EMERGENCY.] Whereas, many corporations created under the laws of this state have ceased to do business, and to maintain any office within this state, and there is no adequate law pursuant to which summons may be served upon such corporation, therefore, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 120.

(S. B. 2.)

RELATING TO PLACES OF HOLDING TERMS OF THE CIRCUIT COURT.

AN ACT to amend chapter 62, Session Laws of 1895, entitled: An act relating to the places of holding terms of the circuit court.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. WHERE COURT MAY BE HELD.] When any county in this state does not own, or cannot procure suitable buildings at the county seat, in which terms of the circuit court for such county may be held, or when the county seat is located ten miles or more from a railroad station, in such county, the terms of court may be held at any other place in such county located on any line of railroad therein, when suitable buildings and other conveniences may be had for holding court, Provided, such buildings and conveniences may be had without extra expense to such county.

§ 2. The judge of the Circuit Court for the county wherein the conditions exist as specified in Section One of this act, shall upon a petition signed by at least one hundred electors of said county issue an order directing that the next term of court of said county shall be held at some other place in said county having the qualifications mentioned in Section 1 of this act, and such order shall be mandatory upon the county commissioners; Clerks of Courts, Sheriffs and all other officers of said county, and all laws applying to their duties as now fixed by law, for the providing for and holding terms of court, shall apply with equal force and effect as though the term was held at the county seat.

§ 3. CLERK MAY REMOVE RECORDS.] The clerk of the Circuit Court of any county of this state, wherein the conditions exist as specified in Section One of this act, upon the making of the order as provided in Section Two of this act, is hereby authorized to remove from the county seat all books and records of his office, to the place designated in such order, and to keep the same at such place during the time of holding such term of court.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved January 13th, 1903.

CHAPTER 121.

(H. B. 217.)

PROVIDING FOR THE ENTRY OF ORDERS OF JUDGMENTS IN PROBATE CASES.

AN ACT authorizing the entry of orders of judgments in probate cases after the close of the administration, when necessary to perfect the title to real property sold by an executor under the provisions of a will.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ESTATES MAY BE REOPENED FOR THE PURPOSE OF ENTERING ORDERS AND JUDGMENTS.] That whenever a testator shall by his will give to the executor thereof power to sell real property to pay debts, and the executor shall have sold real property and with the proceeds thereof paid debts of the testator, and the estate shall have been settled and the executor discharged without such sale having been confirmed by the court, the County Court may, upon petition of the executor or of any person interested in the real property so sold or in said estate, re-open said estate for the purpose of making and entering such orders and judgments as may be necessary to perfect the title to such real property.

§ 2.. PETITION MUST BE FILED.] Upon the filing of any petition for the re-opening of any estate for the purpose aforesaid, the court shall fix a day for the hearing thereof and shall order the same notice given as required for a petition for the probate of a will, and a copy of such petition shall be served upon the executor and upon all heirs of the testator residing in the county in which such real property is situated, at least ten days before the date set for the hearing thereof.

§ 3. DUTY OF THE COURT.] Upon the hearing upon such petition the Court, if satisfied from the evidence that such real property was sold by the executor in good faith and the proceeds thereof applied in payment

of an indebtedness of the testator, existing at the time of his death, although such indebtedness may not have been proven as a claim against the estate, shall enter a judgment that it is so satisfied and confirming said sale and vesting the title of such property in the grantees of the executor and those holding under them, and shall also enter such further orders or judgments as shall be necessary to carry into effect such judgment of confirmation. All orders or judgments made or entered under the provisions of this act shall have the same force and effect as if entered prior to the discharge of the executor.

§ 4. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6. 1903.

CHAPTER 122.

(S. B. 165.)

RELATING TO WITNESSES.

Rep ch. 370-190

AN ACT amending section 803 of the penal code of 1903, and making competent as witnesses, convicts sentenced to imprisonment in the state prison.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1 That Section 803 of the Penal Code of 1903 be, and the same is hereby amended to read as follows, to-wit:

Section 803. PERSON IN PRISON COMPETENT WITNESS.] A person sentenced to imprisonment in the state prison for life, is thereafter deemed civilly dead. *Provided, however,* that any person who is serving a term in any penitentiary shall be a competent witness in any action now pending or hereafter to be commenced in the courts of this state, and his deposition may be taken in the manner prescribed by the Code of Civil Procedure, unless such person so testifying shall have been convicted and be serving a sentence for the crime of perjury, or of subornation of perjury.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] There being no adequate law upon this subject an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved Feb. 28, 1903.

CHAPTER 123.

(S. B. 7.)

CEDING JURISDICTION TO CERTAIN LANDS TO THE UNITED STATES.

AN ACT ceding jurisdiction to certain lands to the United States.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. JURISDICTION CEDED.] That jurisdiction of the lands and their appurtenances which may be acquired by donation, government reservation, purchase or condemnation, by the managers of the National Home for disabled volunteer soldiers within the State of South Dakota, for the uses and purposes of the National Sanitarium for disabled volunteer soldiers, be and is hereby ceded to the United States of America; *provided*, however that all civil or criminal process issued under the authority of the State of South Dakota, or any officer thereof, may be executed on said lands and in the buildings which may be located thereon in the same manner as if jurisdiction had not been ceded as aforesaid.

§ 2. EMERGENCY.] An emergency existing for the immediate taking effect of this Act the same shall be in force from and after its passage and approval.

Approved January 17, 1903.

DENTISTRY

CHAPTER 124.

(S. B. 181.)

RELATING TO DENTISTRY.

AN ACT to amend section 294, article 10, chapter 4 of the revised political code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 294, article 10, chapter 4 of the revised political code of 1903, be and the same is hereby amended to read as follows:

Section 294. Any person violating any of the provisions of this article is guilty of a misdemeanor and upon conviction thereof is punishable

by a fine not exceeding one hundred dollars (\$100) or by imprisonment in the county jail not exceeding thirty (30) days, or both.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 11, 1903.

DEPOSITARIES.

CHAPTER 125.

(S. B. 98.)

RELATING TO BONDS REQUIRED TO BE GIVEN BY DEPOSITARIES OF COUNTY FUNDS.

AN ACT to amend sections 350 and 351 of the revised political code of 1903, being sections 2 and 3 of chapter 104 of the laws of 1897, relating to bonds required to be given by depositaries of county funds, and the amount authorized to be deposited with such depositaries.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section three hundred and fifty of the Revised Political Code of 1903 being Section two of chapter one hundred and four of the laws of 1897, be and the same is hereby amended to read as follows:

Section 350. For the security of the fund so deposited under the provisions of this article, the board of county commissioners shall require all such depositaries to give bonds with five or more freeholders of the state who own unincumbered real estate therein to an amount in value of at least twice the amount required, as sureties, such sureties not to be stockholders or owners of such depositaries unless they are satisfied upon full investigation, that their responsibility would in no wise be affected by the failure of the bank or banker in behalf of which said stockholder or owner signs as sureties. *Provided, however,* that in lieu of the bond hereinbefore provided for, and with the same effect, such depositaries may give bond, executed as surety, by a good reliable trust, surety or guarantee company or association authorized under and agreeable to the laws of this state to become surety upon bonds required by law. Such bond in either case, shall be given for the safe keeping and payment of such deposits and the accretions thereof, and shall run to the county to be approved by the board of county commissioners, and conditioned that such depositary, will at

the end of each and every month, render to the county auditor a statement showing the several daily balances of the county held by it, during the month, and will on the first day of each month report to the county auditor the amounts in the several depositaries as nearly equal as possible, taking said funds, together with the accrued interest, will be paid upon the check of the county treasurer countersigned by the county auditor, upon presentation, which bond shall be filed in the office of the county auditor.

§ 2. That Section three hundred and fifty-one of the revised political code of 1903, being section three of chapter one hundred and four of the laws of 1897, be and the same is hereby amended to read as follows *Am. ch. 183-19*

Section 351. AMENDMENT.] The county treasurer shall not have on deposit at any one time, in any bank which shall have given a bond signed by five or more freeholders, more than one half the amount of such bond, and shall not have on deposit at any one time, in any bank which shall have given a bond, executed as surety, by a trust, guaranty or surety company, more than eighty per cent of the amount of such bond, and shall keep the amounts in the several depositaries as nearly equal as possible, taking into consideration the maximum amounts as fixed by the board of county commissioners which he may keep in each bank. Any bank may make application for such part of the public funds as it may desire, but the board of county commissioners shall determine the amount it shall receive, which shall not be greater than the amount applied for, nor more than one-half the amount of its capital stock.

§ 3. EMERGENCY.] *Whereas*, there being no present provision of law permitting the furnishing of bonds by trust, surety or guaranty companies, an emergency is declared to exist and this act shall be in force and take effect from and after its passage and approval.

Approved March 12, 1903.

EDUCATION.

CHAPTER 126.

(H. B. 93.)

RELATING TO TEACHER'S CERTIFICATES.

AN ACT to amend Sections 2293, 2294, 2295, 2296, of Article 2, of Chapter 22, of the Political Code of the revised code of 1903 entitled "Education."

§ 1. That section 2293 of article 2, of chapter 22, of the political code of the revised codes of 1903, be and the same is hereby amended to read as follows:

§ 2293. UNIFORM CERTIFICATES.] That the state superintendent of public instruction be authorized to issue certificates of the following grades: A first grade certificate valid for not to exceed three (3) years, and a second grade certificate valid for not to exceed two (2) years. The requirements for first and second grade certificates shall include both scholastic and professional ability, and the regulations governing the examinations for such certificates shall be prescribed by the state superintendent of public instruction. A complete certificate shall certify the scholastic and professional requirements, skill in teaching and moral character. The written answers for the scholastic examination hereinafter provided for shall be read and marked under the direction of the state superintendent of public instruction, and the markings for the professional requirements shall be given by the county superintendent, who shall also be the judge of skill in teaching and moral character of the applicant.

§ 2. That section 2294 of article 2, of chapter 22, of the political code of the revised codes of 1903, be and the same is hereby amended to read as follows:

§ 2294. VALIDITY OF CERTIFICATES—QUALIFICATIONS OF TEACHERS.] A complete first grade certificate certifying the scholastic requirements by the state superintendent and to professional requirements, skill in teaching and moral character by the county superintendent in whose county the examination is held, shall be valid in any county of the state. Applicants for certificates of this grade shall pass an examination in orthography, reading, writing, arithmetic, geography, physical geography, English grammar, physiology and hygiene, history of the United States, civil government, current events, American literature, bookkeeping, drawing and didactics. A complete second grade certificate for both scholastic and professional requirements, signed by the state superintendent and the county superintendent, as indicated above for a first grade certificate, shall be valid in the county in which the examination is held, and may be made valid in any county by the endorsement of the county superintendent of said county. Applicants for certificates of this grade shall pass examination in orthography, reading, writing, arithmetic, physiology and hygiene geography, English grammar, history of the United States, civil government, and didactics. No teacher shall be entitled to receive a certificate of any grade herein provided for who fails to give proper evidence of possessing a good moral character; and no teacher shall receive a complete first grade or second grade certificate who shall not be at least eighteen (18) years of age. Subsequent to each examination, the state superintendent of public instruction shall send to each county superintendent in the state a list of persons receiving first and second grade certificates. The county superintendent may, when he deems it necessary, issue a third grade certificate upon his own examination in subjects required for a second grade certificate, for a term of one (1) year, such third grade certificate to designate the district in which said certificate shall be valid, said certificate not to be renewable without examination. No teacher shall be entitled to receive a third grade certificate more than twice in the

same county. Recipients of third grade certificates shall not be less than seventeen (17) years of age. The county superintendent shall require a fee of two dollars from every applicant for a certificate; said fee so collected to be deposited at the close of each examination with the county treasurer, one-half to the credit of the county institute fund and one-half to the credit of the general fund of the state to be turned into the state treasury.

§ 3. That section 2295, of article 2, of chapter 22, of the political code of the revised codes of 1903, be and the same is hereby amended to read as follows:

§ 2295. EXAMINATIONS—TIME—NOTICE.] The superintendent of public instruction shall cause to be held at least two (2) examinations in each year in every county of the state, at such convenient places as may be designated by the county superintendent thereof. The time for such examinations shall be uniform throughout the state, and the examinations shall be conducted by the county superintendent of the county in which the examinations are held, or by persons appointed by him, strictly according to regulations prescribed by the department of public instruction designed to secure uniformity and fairness. An affidavit may be required of such examiner, certifying that the regulations regarding such examinations have been fully observed; *provided*, that any county superintendent may, on his own examination, issue a certificate of the first, second or third grade to applicants who present satisfactory proof that they were unable to be present at the public examination. Such certificate shall be valid only in a district specified on its face and until the time of the next succeeding public examination. Such public notice shall be given of the time and place and regulations governing the examinations as the superintendent of public instruction may determine. The examinations shall be public and the teachers desiring to take the same may dismiss their schools for that purpose for a period not exceeding two (2) days in each year without loss of pay. The local expense for the examinations herein provided for in each county shall be paid by the county in which said examinations are held. The necessary expenses incurred by the superintendent of public instruction in carrying out the provisions of this act shall be paid from the appropriation made for the maintenance of the department of education.

§ 4. That section 2296 of article 2, of chapter 22, of the political code of the revised codes of 1903, be and the same is hereby amended to read as follows:

§ 2296. CERTIFICATE MAY BE REVOKED.] The county superintendent is authorized and required to revoke at any time any certificate held in his county under authority of section 2294, of this article and chapter, for any cause which would have authorized or required a refusal to grant the same—for incompetency, immorality, intemperance, violation of the state law, cruelty, general neglect of the business of the school—and for refusal and neglect to attend regularly a county institute and at least one district

institute each year, after due notice; *provided*, that holders of first grade certificates, in force, who have attended regularly at least four normal institutes, may be excused by the county superintendent, in his discretion, from attendance at institute for such current year. The county superintendent shall within ten (10) days after his decision to revoke a certificate already issued, transmit a written statement to the person aggrieved, stating the ground upon which said certificate was revoked by him, and a copy of such statement shall be forwarded to the state superintendent of public instruction. The person aggrieved, desiring to appeal from such decision shall within ten (10) days after receipt of such notice, serve a written notice of appeal from such decision on the state superintendent of public instruction, which notice shall specify the grounds upon which the appeal is taken. The state superintendent shall provide for a fair review in the case of an appeal from the decision of a county superintendent.

Approved March 3, 1903.

CHAPTER 127

Rep Chap 135-1907 (S. B. 167.)

PROVIDING FOR TOWNSHIP HIGH SCHOOLS.

AN ACT to provide for the establishment of township high schools.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ELECTION—NOTICE OF.] Upon the petition of not less than fifty freeholders of any civil township, filed with the township clerk at least fifteen days preceding the regular election of township supervisors, it shall be the duty of the said clerk to notify the voters of said township that an election "for" or "against" a township high school will be held at the said next regular election of township supervisors, by posting notices of such election in three public places throughout such township, for at least ten days before the election; which notice may be in the following form, viz:

"HIGH SCHOOL ELECTION.

"Notice is hereby given that on Tuesday, the . . . day of March, A. D. . . . , an election will be held at . . . for the purpose of voting 'for' or 'against' the proposition to establish a township high school for the benefit of the township No. . . . range No. . . . The polls for said election will be open at . . . and close at . . . o'clock of said day.

".....
"Township Clerk.

§ 2. VOTES—HOW CANVASSED.] The ballots for such election shall be received and canvassed as in other township elections.

§ 3. TOWNSHIP BOARD OF EDUCATION—SPECIAL ELECTION.] If a majority of the voters at such election shall be found to be in favor of establishing a township high school, it shall be the duty of the supervisors of the township to call a special election on any Tuesday within sixty days of the time of the election establishing the township high school, for the purpose of electing a township board of education, to consist of three members, to-wit: One director, one clerk, one treasurer, notice of which election shall be given for the same time and in the same manner as provided for in the election of township supervisors. The members elected shall determine by lot, at their first meeting, the length of term each is to serve. One of the members shall serve for one year, one for two years, and one for three years from the second Tuesday of July next succeeding their election. Successors shall be elected at the same time and place as the regular township elections are held. Whenever a vacancy occurs the county superintendent shall appoint a successor who shall serve until a successor is elected and qualified. Within thirty days after the election, the members elect of the township board of education shall qualify by making oath that they will support the constitution of the United States, the constitution of the State of South Dakota, and faithfully discharge the duties of their trust. Each member shall further qualify by giving a bond to the high school township, the director in the penal sum of one hundred dollars, the clerk in the penal sum of two hundred dollars, and the treasurer in such sum as may be fixed by the clerk and director, but not less than double the sum of the moneys as nearly as can be ascertained to come into his hands in any one year. The bonds of the clerk and director shall be signed by at least one surety, and that of the treasurer shall have at least two sureties. The bonds of each officer shall be approved by the other two members of the board. Said bonds shall be conditioned that he will faithfully perform his duties as a member of the township board of education, and account for any moneys or property of such high school township that may come into his hands or care. Said oath shall be in writing and may be taken before any one qualified to administer oaths under the law of the state, and said oaths and bond of the members of the first board shall be approved by the township clerk. All bonds of the board of education shall be filed with the auditor of the county wherein such high school township is organized. Failure to qualify within 30 days shall *ipso facto* create a vacancy.

§ 4. It shall be the duty of the township board of education to establish at some central point most convenient to a majority of the pupils of the township a high school for the education of the more advanced pupils. They shall have charge, direction and management of the high school of the township, and the care, custody and control of all the property belonging to it. They shall assist and co-operate with the teacher or teachers in the government and discipline of the school, and may make proper rules and regulations therefor. They may suspend or expel from

school any person insubordinate, or habitually disobedient, provided that such suspension shall not be for a shorter period than ten days, nor beyond the end of the current term of school.

§ 5. CO-OPERATION OF TOWNSHIPS.] In like manner the voters and supervisors of two or more adjoining townships may co-operate in the establishment and maintenance of a high school, on such terms as they may, by written agreement made and signed by the boards of supervisors, enter into.

§ 6. HIGH SCHOOL MAY BE DISCONTINUED.] When any township or townships shall have organized a high school and wish to discontinue the same, upon petition of not less than a majority of the legal voters of said township or townships, filed with the township clerk or clerks of said township or townships, at least fifteen days preceding the regular election of supervisors, it shall be the duty of said clerks to notify the voters of the township or townships that an election will be held on the day of said regular election of supervisors for the purpose of voting "For" or "Against" discontinuing the township high school, which notice shall be given in the same manner and for the same length of time and may be in substantially the same form, as the notice provided for in section 1 of this act.

§ 7. ASSETS OF HIGH SCHOOLS—WHEN DISCONTINUED.—HOW DISPOSED OF.] The ballots for such election shall be received and canvassed in the same manner as provided for in section 2 of this act. If a majority of the votes cast at such election shall be in favor of discontinuing the high school, it shall be the duty of the board of education to discontinue the same, and turn all the assets of said high school into money and deposit the same in the county treasury to the credit of the school funds of the various districts, or parts of districts, embraced within such high school township or townships, in proportion to the assessed valuation of such districts or parts of districts to be used for general school purposes.

§ 8. The regular meetings of the board of education for the transaction of business shall be on the second Tuesday of July, the last Tuesday of November and March, at such hour and place as may be fixed by the board of education, *provided*, that the clerk of the board shall, when requested by a majority of the board, call a special meeting at any time, by giving written notice to each member of the board at least three days prior to the meeting.

§ 9. The board of education shall have power to levy upon the property of the township a tax for high school purposes of not exceeding ten mills on the dollar in any one year, which levy shall be made by resolution of the board at their regular July meeting. The clerk shall immediately thereafter notify in writing the county auditor of the tax so levied. The board of education shall have power and may direct the removal of the school house to a more convenient location, upon the petition of two-thirds of the electors of the entire school township.

§ 10. Every civil township organized for the purpose of establishing a township high school under this act, shall be and is hereby constituted

a corporation for high school purposes, under the name of the civil township, the territory of which it comprises, e. g., High School Township, and may under its name sue and be sued, contract and be contracted with, purchase, hold and use personal and real property for the purposes mentioned in this act.

§ 11. Where the school township system now exists the school township board shall assume the duties of the board of education herein provided for.

§ 12. SALARY OF BOARD.] Members of the board of education provided for in section 3 of this act shall receive a salary of \$1.50 per diem for each day actually spent in the interest of the school district; provided such salary shall not exceed \$25.00 per member, in any one year.

Approved March 9, 1903.

CHAPTER 128.

(H. B. 113.)

Rep ch 135-1907

PROVIDING FOR THE APPOINTMENT OF A DEPUTY SUPERINTENDENT OF PUBLIC INSTRUCTION AND PRESCRIBING HIS DUTIES AND POWERS.

AN ACT to amend sections 2279, 2283 and 2284 of article 1, of chapter 22, of the political code, of the revised code of 1903, entitled, education.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section 2279 of chapter 22 be and the same is hereby amended to read as follows:

Section 2279. POWER TO APPOINT DEPUTY.] He shall have power to appoint one assistant, or deputy, who shall receive a salary of one thousand five hundred (\$1,500) dollars, and shall perform such duties pertaining to the office as the superintendent may direct.

§ 2. That section 2283, of chapter 22 be and the same is hereby amended to read as follows:

Section 2283. SALARY.] He shall receive such salary as is prescribed by law, and also a sum not exceeding five hundred (\$500) dollars per annum for traveling and other expenses while traveling on the business of the department. The traveling expense account and certified bills for necessary office expenses, and for the printing of such blanks and reports as are required by law, shall be paid on the warrant of the State Auditor.

§ 3. That Section 2284, of chapter 22 be and the same is hereby, amended to read as follows:-

Section 2284. MAY GRANT CERTIFICATE.] He shall have power to grant and renew state certificates and state diplomas. He shall keep

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*Am ch 91
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full record of all state certificates and diplomas, and carefully file in his office all papers relating thereto, and preserve said papers for the period for which a state certificate or diploma can be granted. He shall, subsequent to each examination send to each county superintendent in the state a list of the persons receiving state certificates and diplomas.

Approved February 20, 1903.

Rep ch 135-1907
CHAPTER 129.
(S. B. 156.)

RELATING TO BONDED INDEBTEDNESS OF SCHOOL CORPORATIONS.

AN ACT to amend section 2426 of the political code of the revised statutes of 1903, being section 20, of sub-chapter 11, of chapter 113, laws— of 1901, relating to bonded indebtedness of school corporations.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 2426 of the political code of the revised statutes of 1903, being section 20 of sub-chapter 11, of chapter 113 of the laws of South Dakota of 1901, be and the same is hereby amended so as to read as follows:

Section 20. BONDS.] The bonds, the issuing of which is provided for in the foregoing section shall be signed by the president, attested by the clerk, and countersigned by the treasurer of the board of education, and said bonds shall specify the rate of interest and the time when the principal and interest shall be paid, and each bond so issued shall be for a sum not less than fifty dollars (\$50.00) but no corporation shall issue bonds in pursuance of this act in any sum (including other indebtedness) exceeding five per cent of its assessed valuation.

§ 2. EMERGENCY.] *Whereas*, under the present statute the limitation of bonded indebtedness of school corporations is only three per cent and is less than the amount authorized by section 4, article 13 of the constitution, an emergency is hereby declared to exist, this act shall take effect, and be in force from and after its passage and approval.

Approved March 9, 1903.

CHAPTER 130.

(S. B. 170.)

Rep 135-1907

SCHOOL BOARD ELECTION.

AN ACT to amend section 2330, article 4 of the revised political code of 1903, being section 1 of chapter 4, session laws of 1901, so as to read as follows:

Be it Enacted by the Legislature of the State of South Dakota:

Section 2330. AMENDMENT.—SCHOOL BOARD ELECTED.] On the third Tuesday in June, 1903, there shall be elected in each district a school board consisting of a chairman, clerk and treasurer, for the term of one two and three years, respectively, and then annually thereafter one member of said board for the term of three years. Such officer and member elected under the provisions of this article shall qualify on or before the second Tuesday in July following his election, and shall hold his office for the number of years for which he is elected and until his successor is elected and qualified. Whenever a school district shall be formed the county superintendent of schools shall appoint temporary officers for such school district, who shall serve until the first annual school election following and until their successors are elected and qualified. Whenever a vacancy may occur, from any cause, in any school district office under the supervision of the county superintendent, he shall fill such vacancy by appointment, and such officer shall hold such office until the next election, when the vacancy shall be filled by a vote of the people.

§ 2. EMERGENCY.] Whereas, an emergency is declared to exist, this act shall take effect on and after the date of its passage and approval.

Approved March 9, 1903.

CHAPTER 131.

(H. B. 177.)

*Rep by Chap 135
Laws 1907*

RELATING TO SCHOOL LEVIES.

AN ACT to amend subdivision six of section 2139 of article eight of the political code of the revised code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That subdivision six of section 2139 of article eight of the political code of the revised code of 1903, be and the same is hereby amended to read as follows: All school levies of every nature

shall be made in specific amounts and shall be made in the following form, viz:

For tuition fund	dollars.
For general fund	dollars.
For interest fund	dollars.
For sinking fund	dollars.

The rate per centum of all school taxes shall be calculated and fixed by the county auditor, who shall consolidate the amounts and extend the school tax in one column.

Provided, that the total annual school tax rate shall not exceed in any one year the sum of twenty-five mills for all purposes.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 12, 1903.

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CHAPTER 132.

(H. B. 128.)

1227. N. 411

TEACHER'S CERTIFICATES.

AN ACT entitled "An act to amend sections 2286, 2287, 2288, 2289, 2290 and 2353 of the revised political code of 1903.

§ 1. AMENDMENT.] That section 2286 of the revised political code of 1903, be and is hereby amended so as to read as follows:

Sec. Ch. 99
laws of
1905 2286. A state certificate shall be valid for five years, authorizing the person to whom it is issued to teach in any of the common schools of the state, including those in cities and towns for the period of five years aforesaid. Any resident graduate of any of the normal schools of this state, or any resident graduate of the state university who has taken the course in pedagogy as given in that institution shall, upon presentation of a certified copy of his or her diploma be entitled to receive a state certificate free of charge. An applicant for a state certificate a resident graduate of any college in this state, other than the state normal schools and the state university of the state, having taken a course of study equivalent to the advanced course of study prescribed in any of the state normal schools or equivalent to the course of study prescribed in the collegiate department of the state university and to the pedagogical instruction in said state university required, shall, upon filing with the state superintendent a copy of his or her diploma, a copy of the course of study pursued specifically showing the amount of class work and a copy of the standings in each branch pursued, all duly certified or proved by the institution of which applicant is a graduate, as the state superintendent may require, shall be

exempt from the required examination, and shall receive a state certificate free of charge. Other applicants for state certificates shall present satisfactory evidence of twenty-four months successful experience. They shall pass a satisfactory examination in each of the following branches: algebra, geometry, natural philosophy, physiology, hygiene, drawing, civil government, didactics, general history. American literature, English grammar, orthography and penmanship. The character of the papers submitted in examination shall determine the applicant's knowledge of English grammar, orthography and penmanship. The possession of a good moral character shall be deemed a necessary requisite in every applicant, and satisfactory recommendation to establish this shall be submitted by each applicant.

§ 2. That section 2287 of the revised political code of 1903, be and is hereby amended so as to read as follows:

§ 2287. The state superintendent may renew a state certificate or a first grade certificate upon the presentation by the applicant of his certificate and evidence of continued employment and successful experience in the business of teaching. *Am. Ch. 99 Laws of 1901*

§ 3. That section 2288 of the revised political code of 1903 be and is hereby amended so as to read as follows:

§ 2288. A state diploma shall be valid for life or during good behavior, and shall authorize the holder thereof to teach in any of the public schools of the state. The requirements of the state diploma shall be as follows: *Am. Ch. 99 Laws of 1901*

First: The applicant must present a certified copy of the diploma of the institution of which he is a graduate, with a copy of the course of study therein taught, or he must pass examination in such branches as may be selected by the superintendent of public instruction.

Second: He must present ample proof that he has had at least ten years' successful experience as a teacher.

Third: He must pass a satisfactory examination in the science and art of teaching.

Fourth: He must pass an examination in two branches selected by him from the following: Geometry, trigonometry, astronomy, chemistry, zoology and geology; and also in two branches selected by him from the following: English literature, rhetoric, general history, political economy and psychology.

Fifth: He must submit a thesis upon some professional subject chosen by the superintendent.

Sixth: All papers must show a correct and intimate knowledge of English.

Seventh: He must be recommended by persons of liberal education, disinterested, and having a full knowledge of his experience and good moral character.

§ 4. That section 2289 of the revised political code of 1903 be and is hereby amended so as to read as follows:

§ 2289. Each applicant for a state certificate, except resident grad-

uates from the normal schools of the state, or other institutions having normal departments of the same requirements, and the state university, shall pay a fee of five dollars, and for a state diploma shall pay a fee of ten dollars; *provided*, that should an applicant fail in said examination, one-half of the fee shall be returned. All fees thus collected shall be paid by the superintendent into the state treasury, and shall constitute the teachers' reading circle fund, and shall be subject to the order of the state auditor for that purpose, who shall issue his warrant on the state treasurer in favor of the state teachers' reading circle upon vouchers filed with the superintendent of public instruction.

§ 5. That section 2290 of the revised political code of 1903, be and is hereby amended so as to read as follows:

§ 2290. The superintendent of public instruction shall have power to revoke any state certificate or diploma for any cause that would prevent its issue.

§ 6. That section 2353 of the revised political code of 1903 be and is hereby amended by adding:

Six. Any pupil who shall successfully complete the work of the eighth grade as established in the state course of study is privileged to continue his school work up to and including the twelfth grade by attending any neighboring graded school furnishing a higher course of study; and the tuition charges therefor shall be paid by the board of his home district. *Provided*, his home district does not provide instruction in such higher grades.

Approved March 13, 1903.

Rep by Chap 135-1907

CHAPTER 133.

(S. B. 112.) 106 No. 302

PROVIDING FOR ANNEXATION AND DETACHMENT OF TERRITORY TO INDEPENDENT SCHOOL DISTRICTS..

AN ACT amending section 2410 of the revised political code of South Dakota, of 1903, being section 4 of chapter 11 of chapter 113 of the session laws of South Dakota of 1901, relating to the annexation of territory to independent school districts and the detaching of territory therefrom, and providing for appeal to the circuit court from the decision of the committee.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2410 of the Revised Political Code of South Dakota of 1903 be amended to read as follows:

Section 2410. Territory outside of the limits of any organized independent school district, but adjacent thereto, may be attached thereto and

territory within the limits of any independent district, organized for school purposes and adjacent to any school district may be attached to said school district, whether said independent district has been organized by special act or otherwise, under the following conditions:

First. Application by written petition for such change must be made by a majority of the resident electors of territory proposed to be attached or detached from any independent district.

Second. Upon receipt of such petition the county superintendent shall call a committee to decide upon granting or refusing the petition, said committee consisting of himself, the president of the board of education of said independent district, and the chairman of the district board.

Third. The committee shall consider the interests of the two corporations concerned, the convenience of the petitioners, and the permanent school interest, and if they deem it proper shall grant the petition and issue an order authorizing the attaching of such territory to the independent district or school districts to which it is adjacent, and if to an adjacent district containing a city or town, such order shall specify to what ward or wards such territory shall belong for all school purposes.

Provided, that when territory has been attached prior hereto the board of education shall, at any regular meeting, determine to what ward or wards such territory shall belong for all school purposes.

Fourth. The committee shall also have power to adjust all property interests involved in the change which concerns the two corporations interested. Before the issuance of an order authorizing the change, they shall make an equitable adjustment of any question of indebtedness involved.

Fifth. A record of the decisions of the committee shall be transmitted to the clerks of the school board and board of education interested, for record, and a copy forwarded to the county auditor by the superintendent.

Sixth. Such territory, shall, from the date of the order authorizing such change, be considered a part of the independent district or of said school district.

Provided, that such order shall not be issued until after the action and decisions of the committee are recorded by the board of education and the district school board.

The taxable property of all such adjacent territory shall be subject to taxation and bear its proportion of all expenses incurred in the erection of school buildings and maintaining the schools of such corporation.

Provided, that territory more than two miles from the limits of such city or town shall not be considered adjacent territory to which the provisions of this section may apply unless the electors of such territory shall unanimously petition to be thus attached and considered as adjacent territory.

Provided, further, that when an independent school district containing an incorporated city or town is situated so near the center of a civil or congressional township as to leave a fraction of said civil or congressional township impracticable or inconvenient for school purposes, after

attaching adjacent territory to said independent school district, to the two mile limit as provided by law, then in that case the committee provided for in this act may, upon a petition of a majority of the electors of such civil or congressional township, attach the surrounding territory and make the independent district to conform to the civil or congressional township line for school purposes only, and in such cases the committee may, by a majority vote thereof upon the petition of two-thirds of the electors of such surrounding territory and two-thirds of the electors of such independent district, issue its order attaching such surrounding territory to such independent district as aforesaid, and all the foregoing provisions shall apply to such actions of said committee except that said order shall go into effect at the expiration of thirty days from the date thereof, and it shall not be necessary that the actions and decisions of such committee be ratified by the district school board or board of education before the issuance or going into effect of such order.

Seventh. An appeal may be taken from any decision of the committee by any or all of the petitioners or by any of the school districts interested, to the circuit court of the county in which the territory proposed to be annexed or detached is situated, upon notice in writing to the other interested parties, that is, to the committee and school boards and boards of education interested and the petitioners, as the case may be, by service upon any member of the committee, upon any member of each of the school boards and boards of education interested, and upon any one of the petitioners, and upon filing a bond in the office of the clerk of the circuit court in the sum of two hundred and fifty dollars, with at least two sureties to be approved by the clerk of the circuit court, conditioned that appellant will pay all costs therein that may be adjudged against him. Proof of the service of said notice of appeal, by affidavit, shall be filed with the clerk of said circuit court. After the filing of the bond for costs and proof of service of the notice of appeal in the office of the clerk of the circuit court, the committee shall within five days transmit to the clerk of the circuit court the petition and decision of the committee and all original papers in the matter in controversy. Said committee may be compelled by said circuit court by an order entered upon motion to transmit such decision and petition and original papers, and may be fined for neglect or refusal to transmit the same. The clerk of the circuit court shall receive and file said papers and docket the same in the manner as on appeals from justice court, and shall receive the same fees therefor. The matter shall be tried anew in circuit court, the parties appealing to be designated and be the parties plaintiff, and the other parties interested the parties defendant. The action shall stand for trial at the term of the circuit court next convening after the filing of the bond and notice on appeal in the office of the clerk of the circuit court. No note of issue or notice of trial need be served. The same proceedings shall be had as in any civil action and all judgments, orders or decisions made therein shall be valid, mandatory and enforceable as by law provided for judgments or orders in any civil action,

§ 2. EMERGENCY.] There being no law providing for appeals from

the decisions of such committees, an emergency exists and this act shall be in force from and after its passage and approval.

Approved March 2, 1903.

ELECTIONS.

CHAPTER 134.

(H. B. 235.)

RELATING TO THE ESTABLISHMENT OF ELECTION PRECINCTS.

AN ACT to amend Section 1867 of article 2 of the Revised Political Code of 1903 relating to election precincts.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 1867 of Article 2 of the Revised Political Code of 1903, be and the same is hereby amended so as to read as follows:

§ 1867. That board of county commissioners of each county of the state shall on or before the first day of September of each year in which an election is to be held, set off, alter and establish election precincts in their respective counties in such a manner that no precinct shall [contain] more than five hundred voters, and shall fix the polling places within such precincts. *Provided*, that each organized civil township and each ward in every city in the state, shall constitute at least one precinct, and *provided, further*, that whenever fifty qualified electors residing in any incorporated town in this state, which town is entirely in one county, shall sign and present to the board of county commissioners of such county a petition praying that such town may be declared a separate election precinct, the board of county commissioners in each county may, in their discretion, by resolution, declare such town to be a separate election precinct for all general and special elections, accurately describing and fixing the boundaries of such precinct, which may include contiguous territory not to exceed nine square miles in area, in such resolution. That upon making and entering of such resolution by said board of county commissioners such town and contiguous territory within the boundaries so fixed shall be and constitute a separate election precinct for all general and special elections.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 10, 1903.

CHAPTER 135.

S. B. 110.

PROVIDING FOR TWO JUSTICES.

AN ACT to provide for the election of two justices of the peace in incorporated towns.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That there shall be upon the filing of a petition signed by not less than one-fifth of the legal voters with the clerk at least thirty days before an election, and upon the approval of a majority of the trustees elected at the next annual election in incorporated towns, two justices of the peace which said justices, and each of them shall severally have exclusive original jurisdiction to hear and determine all offenses against the ordinances of such town and concurrent jurisdiction with all other justices in all civil cases and in all criminal cases for offenses against the laws of the state committed within the county wherein such town is situated.

§ 2. *Whereas*, an emergency exists and is hereby declared to exist, this act shall be in force and effect from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 136.

Chap 136
Ch 106 - '05

Amich 143-1907 (H. B. 268.)

RELATING TO THE ELECTION OF TOWNSHIP OFFICERS.

AN ACT to amend section 1007 of the revised political code of 1903, relating to the election of township officers at the annual town meeting.

Be it Enacted by the Legislature of the State of South Dakota:

Am. ch. Laws 719 § 1. ELECTION OF OFFICERS—TERM OF.]

Section 1007. There shall be elected at the annual town meeting in each town one supervisor who shall hold his office for a term of three years, and until his successor is elected and qualified, the senior member of the board of supervisors to be chairman thereof; one clerk; one treasurer; one assessor; two justices of the peace; two constables; and one overseer of highways for each road district in the town; *Provided*, that justices of the peace and constables shall be elected for two years and at general elections only, except to fill vacancies; *Provided, further*, that said officers shall be elected by ballot, and the overseer of highways shall be elected by the electors of their respective road districts.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 10, 1903.

ENTRY UPON LANDS.

CHAPTER 137.

(S. B. 39.)

AUTHORIZING CERTAIN PERSONS TO ENTER UPON LANDS IN THIS STATE.

AN ACT authorizing any person employed under and by virtue of an act of the congress of the United States, relating to the surveys of the geological survey of the United States, to enter upon any lands in this state.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AUTHORIZING THE ENTRY UPON LANDS.] For the purpose of making surveys required of the Federal Geological Survey by acts of the United States Congress, and the state survey by its duly authorized officers and agents it shall be lawful for the persons employed in making the same to enter upon the lands within the boundaries of this state, but this act shall not be construed as authorizing any unnecessary interference with private rights. *Provided*, that nothing in this act shall be construed as intending that any person shall be permitted to enter any shaft, tunnel, stope or underground workings of any individual, corporation or association engaged in mining for precious metals without the consent of the owners of such shaft, tunnels, stopes or underground workings.

Approved Feb. 24, 1903.

ESTRAYS.

CHAPTER 138.

(H. B. 173.)

RELATING TO ESTRAYS.

AN ACT to amend sections 2960, 2961, 2962, 2963, 2964, 2965, 2966, 2967 and 2968 of the revised political code of 1903, in relation to estrays.

Be it Enacted by the Legislature of the State of South Dakota:

AMENDMENT.] That sections 2960, 2961, 2962, 2963, 2964, 2965, 2966, 2967 and 2968, of the revised political code of 1903, be amended so as to read as follows:

Sec 372-191

Section 2960. Every person who shall take up, or keep up any estray domestic animal, shall within ten (10) days thereafter, give notice of the taking or keeping up of such animal, by publishing the same three times in a newspaper in his county, or by posting a notice in three of the most public places in his county, if there be no paper in said county, and by sending a copy of such notice to the register of deeds of the county wherein such estray is taken up and kept.

Sec. 2961. Such notice shall contain a minute description of such estray and of the marks and brands thereon, and shall state the time and place where such animal was taken up or when it got into his enclosure, and shall state the name and postoffice address of the person taking up such estray and the place of his residence giving the number and street if in a town or city, or the section, township and range if in the country. Every register of deeds upon receiving such notice shall forthwith file the same in his office, and if such notice describes a branded animal, the register of deeds shall immediately mail a copy thereof to the secretary of state, as the secretary of the state brand and marking committee, together with fifty cents to be by him collected from the person taking or keeping up such estray to be a charge against such estray, and it shall be the duty of such secretary to immediately forward such notice to the record owner of the brand described in such notice. If the estray is not claimed by the owner within ten (10) days after such notice is sent to the register of deeds, the person taking up such estray shall immediately pay the register of deeds to whom such notice has been sent the amount of money necessary to pay the state paper designated by the secretary of state to publish estray notices; and it shall be the duty of the register of deeds to immediately forward said money and a copy of said notice to said paper.

Sec. 2962. Whenever any person shall appear and make claim to any estray so taken up such claimant and the person taking up such estray shall go before the justice of the peace of the county and such claimant shall make an affidavit in writing setting forth his name and place of residence and that he is the owner of such estray, describing it, and thereupon the person having such estray is authorized to deliver the same to such claimant upon payment by him of all costs and fees advanced by the person advertising such estray, together with his reasonable charges for keeping and caring for such estray. If the parties cannot agree as to the amount of such charges the same shall be assessed by such justice of the peace, and such assessment shall be final. Every affidavit required by this section shall be recorded in the docket of such justice and shall then be filed in the office of the register of deeds to whom such notice is sent.

Sec. 2963. If such estray is not claimed by its owner within eleven (11) months after sending such notice to the register of deeds as aforesaid, the person taking up such estray shall go before some justice of the peace of the county wherein such estray is taken up and is kept and make oath that said animal was found estray by him, and the time and place where the same was found, that the marks and brands thereon have not been effaced or altered by him since the taking up or keeping by him, and that

he has given the notice as required by law, describing such estray and its marks and brands, such affidavit shall be made and subscribed in the docket of such justice of the peace, and shall be prima facie proof of the notice of such estray as herein required. Such justice shall thereupon issue his warrant, to three disinterested free holders of the county, unless their attendance may otherwise be had, commanding them to attend at such place as may be therein designated to appraise such estray. The appraisers so appointed, or any two of them, shall thereupon proceed to appraise such estray, and upon the completion of such appraisement shall appear before the justice and report their appraisement in writing verified by them, setting forth a description of the estray appraised, the marks and brands thereon, the name and place of residence of the person taking the same up, and that the appraised value of such estray is a fair and true valuation thereof, and the justice shall enter such report in his docket. Upon the completion of such sworn report of the appraisers certified by him to be a true copy of his docket to the register of deeds of his county, who shall record the same in a book to be kept in his office and to be entitled "The Estray Register."

Sec. 2964. The secretary of state shall select and contract with a printer to print all notices of estrays sent to him by the registers of deeds and shall immediately upon making such contract notify the registers of deeds of each organized county of the name and postoffice address of such printer and the price of printing such notices. Such contract shall be made on the first Monday of January annually and if a vacancy shall, from any cause, occur, the secretary of state shall forthwith fill it by contract. The printer thus selected shall once in each week issue a newspaper or printed sheet, in which he shall print two successive insertions of all estray notices so sent to him, and shall send one copy of each paper issued to the register of deeds of each county in the state who shall receive, file and preserve the same to be examined by any person who may desire to see them. The register of deeds is hereby required to subscribe for one copy of such paper so contracted with, and the amount of the subscription price shall be allowed and paid out of the treasury of the county, not to exceed \$1.50 per year.

Sec. 2965. If two or more estrays are taken up or kept at the same time by the same person, all of such estrays shall be described in the same notice and appraisement and the same fees are allowed as for one estray only.

Sec. 2966. The register of deeds shall be entitled to receive ten cents for filing each paper required to be filed by him in this article and to the same compensation for recording papers required to be recorded by this article as for recording deeds and other like instruments.

Sec. 2967. If any such estray be not claimed and taken away within one month after the appraisement thereof as herein before provided and if the person taking up such estray shall have caused the same to be advertised and appraised as herein provided and shall have complied in all respects with the provisions of this article and the appraised value of such es-

tray or the aggregate value of such estrays, if more than one, does not exceed twenty dollars (\$20) the property therein shall immediately vest in the person taking up the same.

Sec. 2968. If the appraised value of any estray, or estrays in the aggregate taken up at one time, exceeds twenty dollars and the same is not called for and claimed within one month after the appraisal thereof, the person taking up such estrays, shall notify some justice of the peace of the county, and such justice shall appoint a day and a place for the sale thereof, and cause notices of such sale to be posted in three public places in the county at least twenty-two (22) days before such day appointed or shall cause such notice of sale to be published three times in a weekly newspaper if there is one published in the county; and on the appointed day the person taking up such estray shall have the same present at the place fixed by the justice and the justice shall proceed to sell such estrays at public auction for cash, and after paying the legal fees and charges for taking up such estrays and caring for and keeping the same, to be fixed by such justice, and the fees advanced for the notices, appraisal and other costs of such estrays as herein provided, and after deducting the fees allowed such justice for such sale, and the advertisement thereof, the residue of the proceeds of such sale shall be paid to the county treasurer who shall receipt to the justice therefor in duplicate, one receipt to be delivered to the county auditor by such justice.

Provided, if the estray animal or animals be swine not to exceed five head in number the person taking up such estray animals shall not be required to advertise in a state paper as mentioned in section 2961 of this act, and may proceed to the appraisal and sale of such animals as provided for in sections 2963, 2967 and 2968 after the expiration of five months from date of taking up such estrays.

Approved March 12, 1903.

EXEMPTIONS.

CHAPTER 139.

(H. B. 134.)

RELATING TO EXEMPTIONS.

AN ACT entitled an act to amend section 362 of the revised code of civil procedure of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 362 of the Revised Code of Civil Procedure of 1903, of the State of South Dakota, be and the same is hereby amended so as to read as follows:

Section 362. No exemptions shall be allowed any person against an attachment or execution issued for the purchase money of property claimed to be exempt, and on which such attachment or execution is levied.

Approved March 5, 1903.

114 nw. 693

FENCE VIEWERS.

CHAPTER 140.

See ch 237-1917

(S. B. 1.)

CREATING A BOARD OF FENCE VIEWERS AND DEFINING THEIR DUTIES AND POWERS.

AN ACT creating a board of fence viewers, defining the powers thereof, with compensation, naming a place of record, and defining penalty where orders of fence viewers are not complied with. Also defining a lawful line or partition fence.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOARD OF FENCE VIEWERS CREATED.] In every organized township the town board of supervisors shall be a board of fence viewers. In counties, or parts of counties not organized into civil townships, any two of the county commissioners shall constitute the board, and in case the two cannot agree a third may be called to their assistance.

§ 2. POWERS OF FENCE VIEWERS.] The fence viewers shall have power to determine any controversy arising under this act upon giving five days' notice in writing to the opposite party or parties, prescribing the time and place of meeting to hear and determine the matter named in said notice. Upon request of any land owner to the fence viewers such notice to all adjoining land owners liable for the erection, maintenance, rebuilding or repairing of a partition fence or to pay for an existing lawful fence shall be given at said time and place and the fence viewers shall meet and determine by written order the obligations, rights and duties of the respective parties in such matter and assign to each owner the part which he shall erect, maintain, rebuild or pay for and fix the value thereof, and prescribe the time in which the same shall be completed or paid for, and in case of repair may specify the kind of repairs made.

§ 3. WHEN FENCE IS ON LAND OF ANOTHER.] When a person has made a fence which is found to be on land of another, such person may enter upon the land of the other and remove his fence upon his first paying

or offering to pay the other party for any damage to the soil which may be occasioned thereby and the value of any timber used in said construction taken from the land of the other party, if any, and if the parties cannot agree as to the damages, the fence viewers may determine them as in other cases. Such removal shall be made as soon as practical, but not between the first day of June, and the 15th day of October, following, if it will expose the crops of the other party.

§ 4. LINE OR PARTITION FENCES.] A person building a fence may lay the same upon the line between him and the adjacent owners so that it may be partly on one side of the line and partly on the other, and the owner shall have the same right to remove it as if it were wholly on his own land.

§ 5. MAY MAKE FENCE TIGHT.] Any person owning land and desiring to make the partition or line fence sufficiently tight to hold sheep or swine may do so by adding material to that already built, and at his election may remove the same at any time by giving five days' notice to the owner or occupant of the adjoining land. However, if both parties wish to use the partition or line fence at the same time for the restraining of sheep or swine then each party shall equally share the burden of maintaining the fence sufficiently tight to restrain them.

§ 6. OPENING LANDS—REMOVAL OF FENCE.] If any person shall determine not to keep inclosed any part of his land adjoining any partition fence and shall give six months' notice of such determination to all adjoining occupants of lands, he shall not be required to keep up or maintain any part of such fence during the time his lands shall lie open, but when any party shall open his inclosure, he shall not take away any part of the partition fence belonging to him if the owner or occupant of the adjoining land will pay the value thereof, the value to be fixed by the fence viewers if the parties cannot agree. Otherwise in such case he may remove the same.

§ 7. FENCE ON ONE SIDE OF THE LINE.] The provisions concerning partition or line fences shall apply to a fence standing wholly on one side of the partition line, or part on one side and part on the other, unless set back the distance of two feet or more from the partition line.

§ 8. A LAWFUL LINE OR PARTITION FENCE DEFINED.] In case owners of adjoining lands cannot agree as to kind and strength of a line or partition fence, the lawful fence which each shall build shall consist of three rails of substantial material, or three boards not less than three-fourth inch thick and six inches wide, such rails or boards to be fastened to or in good substantial posts, well set in ground not more than ten feet apart where rails are used, and not more than eight feet apart when boards are used, or in place of top board any good barbed wire may be used, or said fence may consist of three strands of any good barbed wire, fastened to posts not more than two rods apart, said wires to be well stretched and firmly stapled to the posts, the top wire, rail or board to be not more than fifty-four nor less than forty-eight inches in height, and the bottom rail, board or wire shall not be more than twenty-two nor less than sixteen inches from the ground.

§ 9. PARTITION FENCES IN WATER.] Where a partition fence running into the water is necessary to be made, the same shall be done in equal shares, unless otherwise agreed by the parties; and in case either party shall refuse or neglect to make or maintain the shares belonging to him, similar proceedings shall be had as in case of other fences, and with the like effect.

§ 10. PARTITION FENCE WHEN LAND BOUNDED BY WATER.] When the boundary line between inclosed lands of different persons is a river, brook, pond or creek which of itself is not a sufficient fence, and it is impracticable, without unreasonable expense, for a partition fence to be built on the true boundary line, and either owner or occupant shall refuse to join in making a partition fence on either side thereof; or if they shall disagree respecting the same either party may apply to the fence viewers of the town or county, who after giving notice, shall proceed to view such river, brook, pond or creek; and if they shall determine that the same is not a sufficient fence, and that it is impracticable without unreasonable expense, to build a fence on the true boundary line, they shall, in writing, under their hands, determine how or on which side thereof the fence shall be built, or whether partly on one side and partly on the other, and assign to each owner or occupant his share thereof, and the time within which the respective parties shall build the same, and file such determination in the office of the town clerk who shall record the same. If either party shall refuse or neglect to build within the time so assigned, his part of the fence, the other may, after having completed his own part, build such part, and recover double the expense thereof, as hereinafter provided.

If said fence viewers shall determine that it is impracticable, either from the formation of the banks of such river, brook, pond or creek, or from any other cause, to maintain any fence along or near said boundary line, they shall give written notice to the parties of such determination.

§ 11. COMPULSORY REPAIR OF FENCE.] In case any person shall neglect to repair or rebuild any partition fence which by law he ought to maintain, the aggrieved party may complain to two or more fence viewers of the town, who after giving notice shall examine the same, and if they shall determine such fence is insufficient, they shall signify the same to the delinquent party, and direct him to repair or rebuild the same within such time as they shall deem reasonable. If such fence shall not be repaired or rebuilt within the time so fixed, the complainant may repair or rebuild the same, and recover double the expense thereof, as hereinafter provided.

§ 12. COST OF REPAIRS.] Whenever any owner or occupant shall have built, repaired or rebuilt any fence in pursuance of the preceding sections which the adjoining owner or occupant shall have been lawfully directed by fence viewers to build, repair or rebuild, and have failed to do within the time prescribed he may call upon two or more fence viewers of the town, who shall, after having given notice to such adjoining owner or occupant, examine such fence and ascertain the expense thereof, and if they shall adjudge such fence sufficient, they shall give to such party a cer-

tificate under their hands of such decision, and of the amount of the expense of such building or repairing and the fees of the fence-viewers who made such order, and said certificate shall be conclusive evidence of all the facts set forth therein, unless said decision is appealed from as hereinafter provided; and thereupon such party may demand double the amount of such ascertained expense, together with such fees, from such adjoining owner or occupant; and in case of neglect and refusal to pay the same for one month after so demanded, the same may be recovered with interest at the rate of one per cent per month and costs.

§ 13. COST OF MAINTAINING FENCES IN CERTAIN CASES.] When any uninclosed land shall afterwards be inclosed or in cases in which lands are now inclosed, the owner or occupant thereof shall pay one half of each partition fence standing upon the line between his land and the inclosure of any other owner or occupant, unless such line shall have been previously divided, in which case he shall pay the value of the fence on the part of such line so assigned to him; and the value thereof at the time in either case shall be ascertained on the application of either to the fence viewers in case the parties do not agree; and if such owner or occupant shall neglect or refuse to pay the same for sixty days after the value has been so ascertained and demand made, the proprietor of such fence may recover such value with the fence viewers' fees and costs.

§ 14. ORDERS OF FENCE VIEWERS.] Any order made by fence viewers or any agreement in writing between adjoining land owners, when recorded as in this chapter provided shall bind the makers, their heirs and subsequent grantees, except if the land of either shall cease to be used for revenue or benefit, or the owner shall determine to leave land open as mentioned in Section six (6) of this Act.

§ 15. FEES OF FENCE VIEWERS.] Each fence viewer shall receive for his services the sum of two dollars (\$2.00) per day for the time he shall be so employed and the board of fence viewers shall determine the amount each contending person shall pay, and if such person shall neglect to pay the same within thirty days after this service shall have been performed the viewers severally or jointly may recover double the amount of such fees from the party or parties so neglecting.

§ 16. RECORD KEPT.] All orders and decisions made by the fence viewers together with statement of fees for their services, must be recorded in the office of the register of deeds, and a certified copy thereof must be filed in the office of the township clerk, and the expense of such recording and filing shall be equally borne by adjoining land owners and all agreements in writing made by adjoining land owners in order to be binding upon their heirs and subsequent grantees must be recorded as above. The register of deeds shall receive compensation at the rate of ten cents for each one hundred words of entering record and making certified copies of the matters herein provided for, and twenty-five cents additional for his certificate thereto when required.

§ 17. APPEAL.] An appeal may be taken to the Circuit Court from any order or decision of the fence viewers by any person affected, in the

same manner appeals are taken from Justices of the Peace, except that the appeal bond shall be approved by the register of deeds, in which event the register of deeds, after recording the original papers, shall file them in the office of the clerk of the Circuit Court, certifying them to be such, and the clerk shall docket them, entitling the applicant or petitioner as plaintiff, and it shall stand for trial as in other cases.

§ 18. Provided that nothing in this act shall be construed as repealing any portion of section one (1) chapter fifty nine (59) of the Session Laws of 1881. Section one (1) of chapter seventeen (17) of the Session Laws of 1885, and section two (2) and three (3) of chapter seventeen (17) of the Session Laws of 1885, being sections 825, 826 and 827 of the Proposed Revised Code of Civil Procedure of 1903.

§ 19. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 18, 1903.

FEES.

Am. ch. 149. Laws 1907

CHAPTER 141.

(S. B. 169.)

FIXING THE FEES OF THE OFFICE OF SECRETARY OF STATE.

AN ACT fixing the fees of the office of secretary of state.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. FEES—MUST BE COLLECTED IN ADVANCE.] The Secretary of State shall charge the following fees for services performed in his office, and shall collect the same in advance.

For examining, filing, and recording articles of domestic incorporations, except religious, charitable, benevolent, and fraternal associations, and issuing charter for the same, the fees shall be as follows:

Authorized capital stock of \$25,000 or less	\$10.00
Over \$25,000 and not exceeding \$100,000	15.00
Over \$100,000 and not exceeding \$500,000	20.00
Over \$500,000 and not exceeding \$1,000,000	25.00
Over \$1,000,000	40.00

For any excess of 1000 words in any articles of incorporation, a fee of 10 cents per folio shall be charged for recording.

For examining and filing of amendments to articles of incorporation, or amended articles of incorporation, five dollars. *Provided*, that where the capital stock is increased in amended articles or amendments to articles of incorporation, such a fee shall be charged as shall make together with the fee paid at the time of the incorporation a total sum equal to the fee which would be required under this act in case the corporation had been incorporated for such total increased capitalization.

For examination, filing and recording of articles of incorporation of religious, charitable, benevolent and fraternal associations, three dollars.

For examination and filing of articles of incorporation of foreign corporations, including corporations authorized to become surety on bonds, and issuing certificate of authority to do business in this state, ten dollars, and for examining and filing annual statement, five dollars.

For filing and recording appointment of resident agent of foreign corporations and issuing certificate, two dollars.

For examination of annual statement of domestic building and loan associations and issuing certificate of authority five dollars.

For recording and safe keeping of any instruments or papers required by law to be filed and recorded in his office, per folio of one hundred words, twenty-cents.

For making transcript of any record, instrument or paper, on file in his office, per folio of one hundred words, twenty cents.

For filing and safe keeping of official bonds, official oaths or any other instrument or paper required by law to be filed only, fifty cents.

For each commission, requisition, passport or other document, signed by the Governor and attested by the Secretary of State, under the great seal of the state, and making the proper record of the same, two dollars.

For appointment and commission of commissioner of deeds, five dollars.

For filing application and bond and issuing commission of notary public, two dollars and fifty cents.

For official certificate and attestation and impression of the great seal, one dollar.

For each search of the records of his office, fifty cents.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 5, 1903.

CHAPTER 142.

(H. B. 227.)

REGULATING THE FEES FOR THE LEASE AND PURCHASE OF SCHOOL AND PUBLIC LANDS.

AN ACT to amend section 392 of the revised political code of 1903, being an act to regulate the fees for the lease or purchase of any school or public lands from the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 392 of the Revised Political Code of 1903, be and the same is hereby amended to read as follows:

There shall be paid by the party or parties who shall hereafter lease or purchase of the State of South Dakota any school or public lands the following fees, viz: For each yearly lease, one dollar; and for each additional year, fifty cents; and for each contract for lands purchased, one dollar; and for each patent one dollar and twenty-five cents to be paid at the time the lands are leased or sold as provided by law for the payment of principal and interest; *Provided*, that the fee to be paid for patent shall not be paid until final payment of principal and interest.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved February 28, 1903.

FERRIES.

CHAPTER 143.

(S. B. 136.)

RELATING TO FERRIES.

AN ACT to amend article 19, of chapter 17 of the Revised Political Code of 1903, relating to Ferries: Granting of license, fixing rates and procedure in reference thereto.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Article 19, of Chapter 17 of the revised political code of 1903, be amended to read as follows:

170 *ms* 145 Section 1778. AMENDMENT.—FERRY LEASE.] It shall be unlawful for any person to establish, maintain or operate upon any waters within this state, any ferry, upon which to convey, carry or transport any persons or property, for hire or reward, without first having procured a ferry lease therefor, as hereinafter provided; and where but one bank or shore is in this state, the board of county commissioners, of the proper county, mayor and city council and trustees of any incorporated city, town or village, shall have the same authority, and the law applies with like effect, as if the entire stream or water were within this state so far as the banks and waters actually within it are concerned, and when any ferry lease has been granted, no other lease shall be granted, within a distance of two miles from the place described in the application for a ferry lease, as the ferry landing, across the same stream, and any person violating any of the provisions of this act shall for each offense forfeit and pay to the proper county, city, town or village, not less than ten nor more than one hundred dollars to be recovered in the name of the county, city, town or village issuing said lease.

170 *ms* 148 Section 1779. FERRY LEASE—BY WHOM GRANTED.] The board of county commissioners of the proper county or the mayor and city council or trustees of any incorporated city, town or village, to whom application shall be made for a ferry lease in the manner hereinafter provided, are hereby authorized and it shall be their duty to grant a ferry lease to such person or persons for the term of not exceeding fifteen years, who shall bid and secure the highest amount of rent for the same.

Provided, that when application shall be made for a ferry lease on any of the waters in this state, which shall be within or the meander line of such waters shall be within or form the boundary line of, or which ferry shall be within two miles of any incorporated city, town or village, such application shall be made to the mayor and city council or trustees of such city, town or village who are hereby authorized and it shall be the duty of such mayor and city council or trustees, to make such ferry lease as lessors and such highest bidder or bidders as lessees, and when in the opinion of the county commissioners or mayor and city council or trustees of the county, city, town or village wherein such lease is granted the rate fixed by law is too high for crossing such ferry, they shall have the right to fix the rate as in their judgment may seem just.

§ 3. RATES.] Section 1780. The rates for crossing the Missouri river on ferries shall not exceed the following, to-wit:

For two horses, mule or oxen and wagon, with or without load one dollar, for each additional pair of horses, mules or oxen, thirty cents.

For two horses or mules and buggy and driver, seventy-five cents, for each one horse or mule with buggy and driver, fifty cents, for each additional horse or mule, twenty-five cents.

For loose cattle, per head, fifteen cents, for sheep and swine per head, five cents, for each foot passenger, ten cents.

For each one hundred pounds of freight or merchandise, ten cents, for each one thousand feet of lumber, one dollar.

The rates for ferriage across the Big Sioux river, the Vermillion river and Dakota river shall not exceed the following, to-wit:

For each foot passenger, ten cents.

For each horse or mule with or without rider, ten cents.

For each head of loose cattle, five cents.

For two horses or mules or cattle team, loaded or without load with driver, twenty-five cents.

For each head of sheep or swine, five cents.

For each horse or mule or ox over two attached to a team, five cents.

All freight not attached to team, five cents per hundred pounds.

For each single horse or mule with buggy and driver, fifteen cents.

All lumber in pile fifty cents per thousand feet.

Said ferryman is required to keep a schedule of his legal prices posted up in a convenient place at or near said ferry in easy view of the passing public.

Section 1781. DUTY OF SECRETARY OF STATE.] The Secretary of State is hereby authorized when application is made to him, to grant a lease of any ferry in any unorganized county in this state, for the like period and under the provisions of this act. The money received therefor shall be by him paid into the state treasury: *provided*, that all leases granted by the secretary of state under this act shall terminate upon organization of the county in which the same or any part thereof lies, and it shall thereafter be subject to the general law as herein provided.

Section 1782. DUTY OF LESSEE.] Every person obtaining a lease to operate and maintain a ferry as aforesaid, shall provide and keep in good repair a good and sufficient boat for the safe conveyance of persons and property, and when the river or creek over which the ferry is operated is passable, shall keep a sufficient number of hands, to work and manage the boat, from sunrise to sunset, and with reasonable care and promptness, convey across said waters all persons and property presented for transportation across the same. And if the lessee or lessees as aforesaid shall fail or neglect to perform all or any of the duties enjoined upon him or them by this act or shall demand or receive a higher rate of ferriage than is allowed by this act or shall be fixed by the county commissioners of the proper county or the mayor and city council or board of trustees of any incorporated city, town or village as herein provided the lessee or lessees so offending shall for each offense forfeit and pay the sum of ten dollars to such county, city or town or village, to be recovered before any justice of the peace of the proper county, or justice in and for the said city, town or village.

Section 1783. MONEYS TO BE PAID INTO TREASURY.] All moneys received for ferry leases, fines or forfeitures collected for failure of the lessee or lessees to comply with the provisions of this act shall be paid into the county, city, town or village treasury.

Section 1784. VIOLATIONS.] Any and all persons who have heretofore or may hereafter receive a lease in any form whatever, either from the county commissioners, mayor and city council, or trustees of any incor-

porated city, town or village for operating and maintaining a ferry or ferries within this state who shall neglect or fail during the period of one month at any one time after the passage of this or any prior act, to keep his or their ferry or ferries in operation or his or their ferry or ferries in a safe condition for the safe transportation of persons and property, according to law shall forfeit all the ferry rights franchises and privileges, and all right title or claim to same, granted under this act or any former act as aforesaid and upon due proof being made before the board of county commissioners, mayor and city council or trustees of any city, town or village of such failure and neglect as aforesaid, the said commissioners, mayor and city council or trustees are authorized, empowered and directed to make and declare such forfeiture absolute and thereupon and thereafter all rights, franchises and privileges, granted by or under this act, or any previous act as aforesaid shall cease to be of force and effect in law or in equity.

Section 1785. Nothing in this chapter shall prevent any person or persons from ferrying persons or property across any stream in this state in time of high water. *170 New 145*

Section 1786. If any person shall operate a ferry in this state, without a lease being first obtained as aforesaid, the owners or persons so offending shall forfeit and pay a sum not less than fifty dollars for each month or fractional part thereof in which he shall unlawfully operate such ferry, which sum shall be recovered by action by the county, city, town or village having jurisdiction.

§ 2. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 12. 1903.

FIREARMS.

CHAPTER 144.

(H. B. 167.)

PROHIBITING THE USE OF FIRE ARMS BY PERSONS UNDER FIFTEEN YEARS OF AGE.

AN ACT to prohibit the use of fire arms by persons under fifteen years of age.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. UNLAWFUL TO USE ARMS BY CERTAIN PERSONS.] It shall be unlawful for any person under the age of fifteen years to carry, use or

discharge any rifle, shot gun, revolver or other fire arms except with the consent and knowledge of their parents or guardians.

§ 2. DUTY OF PARENT OR GUARDIAN.] It shall be unlawful for any parent or guardian, having the legal charge or control of any minor under the age of fifteen years, to allow or permit such minor to use or carry while loaded any of the arms mentioned in section one of this act within the platted portion or within the distance of one mile of the platted portion of any city, town or village.

§ 3. PENALTY FOR VIOLATION.] Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not exceeding Fifty Dollars.

Approved March 10, 1903.

FISH.

Chap 145
Ch 112 - '05

CHAPTER 145.

(H. B. 104.)

RELATING TO FISH.

Am ch 112 Laws 1905

AN ACT entitled an act amending section 3103 of the revised political code of South Dakota, of 1903, relating to time when it shall be unlawful to catch, sell or transport fish.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 3103 of the revised political code of South Dakota of 1903, be and the same is hereby amended so as to read as follows:

Section 3103. It shall be unlawful to kill, take or have in possession any trout, bass, carp, shad or croppies taken or killed in any of the waters of this state during the months of October, November, December, January, February and April, or either of said months in any year and the possession of said bass, trout, carp, shad or croppies, by any person during the above mentioned months shall be prima facie evidence of the violation of the provisions of this section, and the burden shall be upon the defendant to establish that such fish so in his possession were taken without the state. It shall be unlawful to sell or offer for sale at any time, any trout or other food fish, taken or killed in any of the waters of this state, or to ship or transport them out of the state. It shall be unlawful for any Express company or other carrier to receive, ship or transport any trout or other food fish taken or killed in any of the public waters of this state. It shall be unlawful to kill or destroy, or have in possession for

any purpose whatsoever, except for cultivation, propagation or dissemination at any time any trout, silver striped or black bass, pickerel or pike, less than six inches in length.

Provided, that all of the foregoing provisions shall apply to the month of September of each year and every year as to trout, and *provided, further*, that it shall be unlawful to kill or destroy, or have in possession for any purpose whatsoever, except for cultivation, propagation or dissemination at any time any trout at any time less than seven inches in length.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 146.

(S. B. 225.)

RELATING TO THE KILLING OF FISH.

AN ACT to amend section 3108 of the political code of the revised codes of 1903, relating to penalties for violating the laws against the taking and killing of fish.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] Section 3108 of the political code of the revised codes of 1903, is hereby amended to read as follows:

Section 3108. "Any person or persons, or officers or servants of any company or corporation, convicted of violating any of the provisions of sections 3100, 3101, 3102, or 3103, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not less than twenty-five dollars nor more than one hundred dollars for each offense."

Approved March 11, 1903.

FOOD AND DAIRY.

CHAPTER 147.

(H. B. 194.)

RELATING TO FOOD AND DAIRY COMMISSIONER.

An Act to amend articles 8 and 10 of chapter 27 of the revised political code of 1903, relating to food and dairy commissioner, and providing for penalty for violation of adulterated food law.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. AMENDMENT.] That Section 2868 of the revised political code be amended to read as follows:

Section 2868. It shall be the duty of the said commissioner to enforce all laws that now exist, or that hereafter may be enacted in this state relative to the several articles which are foods, or necessary constituents of foods, which are manufactured, or sold, or exposed or offered for sale in this state, and may in a lawful manner procure samples of the same for analysis, and direct the chemist of the agricultural college, state university, or school of mines to make due and careful examination of the same, and report to the commissioner the result of all or any such analysis so made, of any or all such foods as are adulterated, impure or unwholesome, in contravention of the laws of this state. He shall make an annual report to the governor for the fiscal year ending June 30th, each year, showing in detail the work of his office.

§ 2. That section 2874 of the revised political code be amended to read as follows:

Section 2874. No person or persons shall sell or offer for sale, for consumption or sell, supply or bring to be manufactured, into any article of butter or cheese, to any butter or cheese factory, any milk diluted with water or containing more than eighty seven per centum of water fluids, or less than thirteen per centum of milk solids, of which not less than three per centum shall be butter fat, nor any cream containing less than twenty per centum of butter fat, or any impure, unclean, unhealthy, adulterated or unwholesome milk, or cream from the same; or milk from cows within fifteen days before or five days after parturition, or milk to which any preservative has been added. Penalty.—Whoever violates any of the provisions of this act shall be deemed guilty of a misdemeanor and punished as hereinafter provided.

§ 3. That Section 2888 of the revised political code be amended to read as follows:

Section 2888. Whoever violates any of the provisions of sections 2873, 2874, 2876, 2877, 2878, 2882 and 2885, shall be punished by a fine

*Repealed by
Chap 151-1967*

of not less than ten dollars nor more than one hundred dollars, and shall stand committed by the court until the fine is paid as provided by law.

§ 4. That section 2893 of the revised political code be amended to read as follows:

Section 2893. The food and dairy commissioner of the State of South Dakota shall receive as his salary, the sum of twelve hundred dollars per annum, payable monthly. The said commissioner is hereby empowered to appoint a stenographer at a salary not exceeding six hundred dollars per annum, payable monthly.

§ 5. That Section 2894 of the revised political code be amended to read as follows:

Section 2894. The food and dairy commissioners shall be entitled to his necessary and actual expenses incurred in the performance of his official duties, to be paid at the end of each calendar month upon duly certified and itemized bills to be approved by the state auditor, and is also authorized to purchase such furniture, books, apparatus, supplies and stationery as may be needed for the proper conduct of his department.

§ 6. That section 2931 of the revised political code be amended to read as follows:

Section 2931. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ten dollars not [nor] more than fifty dollars and costs, or by imprisonment in the county jail for a period of not less than ten nor more than thirty days.

Approved March 12, 1903.

GAME.

CHAPTER 148.

(S. B. 205.)

RELATING TO GAME.

AN ACT to amend subdivision 8 of section 3054 of the revised political code of 1903, relating to the protection of game.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That subdivision 8 of Section 3054 of the Revised Political Code of 1903 be amended to read as follows:

Sub-division 8. Shoots or kills in one day more than fifteen of the

game birds mentioned in sub-divisions 1, 2 or 3 of this section, is guilty of a misdemeanor, and upon conviction thereof before a justice of the peace of the county, is punishable by imprisonment in the county jail for not less than five days nor more than thirty days or by a fine of not more than ten dollars for each of the birds mentioned in subdivision 1, 2 or 3 of this section, so shot or killed, or nests of eggs destroyed or by both fine and imprisonment in the discretion of the court and a like punishment for each violation of subdivisions 4 or 5 of this section; and not more than one hundred dollars for each animal mentioned in subdivision 6 of this section, so shot, or killed, trapped or taken, and not more than one hundred dollars, and not less than twenty-five dollars, for a violation of subdivisions 7 or 8 of this section, in the discretion of the court.

Approved March 9, 1903.

CHAPTER 149.

(H. B. 137.)

Chap 149
Ch 116 - '05

RELATING TO GAME.

AN ACT to amend section 3083 of the political code of 1903, relating to punishment for pursuing, hunting or killing certain game.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 3083 of the political code of 1903 be amended to read as follows:

Section 3083. Any person or persons who shall pursue, hunt or kill by any means or device whatever, any buffalo, elk deer or mountain sheep, at any time before the 15th day of November of each year or at any time after the 15th day of December of each year within the boundaries of the State of South Dakota, is guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty and not more than one hundred dollars, and by imprisonment in the county jail for thirty days.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 3, 1903.

CHAPTER 150.

(H. B. 157.)

RELATING TO GAME.

AN ACT to amend section 3055 of chapter 27 of article 23 of the revised political code of 1903 relating to game.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 3055 of chapter 27, article 23, of the revised political code of 1903, be and the same is hereby amended to read as follows:

Section 3055. Every person who has in his possession any of the birds or animals mentioned in the preceding section after fifteen days from the close of the respective seasons during which it shall be lawful to hunt or kill the same, and any person, firm or corporation who at any time in the year shall have in his, their or its possession more than fifteen of the birds named in subdivisions one and two of said section of this act unless the same have been lawfully received for transportation, shall be guilty of a misdemeanor; and upon conviction thereof before any justice of the peace of the county is punishable in the manner and to the extent provided in said section for the killing of the same, provided that the fine in no case shall exceed the sum of one hundred dollars in any one offense or be less than ten dollars.

§ 2. That section 3056 of chapter 27, article 23 of the revised political code of 1903, be and the same is hereby amended to read as follows:

Section 3056. It shall be unlawful for any person, railroad company, express company or other common carrier, or the servants or agents of such common carrier at any time to send, ship, carry or transport out of this state, or to have in his or their possession for that purpose any game in this article. And the possession of such game by any person, railroad company, express company, or other common carrier shall be deemed presumptive evidence of the violation of the laws of this state enacted for the protection of game. It shall also be unlawful for any such person, railroad company, express company, or other common carrier, or the servants or agents of such common carrier at any time to send, ship, carry or transport, from one town in this state to any other town, either in or out of this state or to have in his or their possession for that purpose at any one time more than fifteen of any of the birds mentioned in subdivisions one and two of section 3054. *Provided*, nothing in this act shall be construed to abridge or repeal any preceding laws of this state prohibiting the sale of game within this state. And *provided further*, nothing in this section shall prevent any person from taking game in quantity not to exceed fifteen of the birds mentioned in subdivisions one and two of section 3054, either during the open season or within three days thereafter either out of the state or from one town

to another within the state when the same shall be shipped in open view, tagged and plainly labeled with the name of the owner thereof and accompanied by him, the same to be used for food only and not for commercial purposes. Any person, corporation or company violating any of the provisions of this section shall be punished by a fine of not less than ten dollars or more than one hundred dollars for each offense which said offense shall be triable before any justice of the peace of any county in or through which said game shall be shipped or attempted to be shipped.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

GRAND LARCENY.

CHAPTER 151.

(H. B. 220.)

GRAND LARCENY.

AN ACT to amend section 608 of the penal code of the State of South Dakota revision of 1903, relating to larceny.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. GRAND LARCENY.] That Section 608 of the penal code of the State of South Dakota, revision of 1903, be amended so as to read as follows: Section 608. Grand Larceny is larceny committed in either of the following cases:

1. When the property taken is of value exceeding twenty dollars.
2. When such property although not of value exceeding twenty dollars, is taken from the person of another. *116 Nov 72*
3. When such property, although not of value exceeding twenty dollars, is a bull, steer, cow, heifer or calf, or is a stallion, mare, gelding, horse or colt.

Larceny in other cases is petit larceny.

Approved March 3, 1903.

HIGHWAYS.

CHAPTER 152.

(H. B. 252.)

RELATING TO HIGHWAYS.

An Act providing for the establishing, altering and vacating of highways on lines between any city or incorporated town, and any portion of any county not organized into civil townships.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PETITION FOR BOARD TO BE FILED WITH COUNTY COMMISSIONERS.] Whenever the board of county commissioners of any county shall receive a petition praying for the location of a road, or for altering or vacating of any road, on a line between any portion of the county not organized as a civil township, and any city or incorporated town, within said county, they shall act upon said petition, and shall be governed in all their proceedings by the laws in force applicable to territory lying outside of the jurisdiction of any city, incorporated town or organized civil township.

§ 2. COUNTY AUDITOR TO MAKE CERTIFIED COPY OF PETITION.] Immediately after the board of County Commissioners shall have made any order establishing, altering or vacating any highway under the provisions of section one of this act, the county auditor shall make a certified copy of the petition, and of the record of the board of county commissioners, with reference thereto, and shall forthwith file the same with the City clerk, city auditor or town clerk of the city or incorporated town whose territories shall be affected by the establishing, altering or vacating of such highway.

§ 3. BOARD OF TRUSTEES OR CITY COUNCIL TO ACT ON PETITION.] It shall be the duty of the Board of trustees of the town, or city council, as the case may be, within thirty days after the filing of the certified copy of the petition, and record of the board of county commissioners, provided for in section two of this act, to act thereon by adopting a resolution approving or disapproving of the same.

§ 4. ACTION ESTABLISHING ROAD OPERATING—WHEN.] Immediately after the adoption of such resolution by the city council, or board of town trustees, as the case may be, the clerk or auditor of such city or town, shall make and file with the county auditor a certified copy thereof, and the action of the Board of County Commissioners establishing altering or vacating any highway on the line between incorporated town or city, and any portion of any county not organized in civil townships, shall be operative upon the filing with the county auditor of said county, of a certified

copy approving the same, adopted by the city council, or board of town trustees of the city or incorporated town, whose territory is affected thereby.

§ 5. DAMAGES—BY WHOM PAID.] All damages, if any accruing from the establishing, altering or vacating such highway as provided by this act shall be assessed and paid by the county, the same as if no city, or incorporated town were affected, and the jurisdiction of such road shall be wholly within the county, and under the control of the board of county commissioners.

§ 6. REPEAL.] All acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

§ 7. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

HORSES.

Chap 153
Ch 120 - '05

CHAPTER 153.

(H. B. 213.)

SHIPMENT OF HORSES.

AN ACT entitled an act providing for the inspection of branded horses about to be shipped out of the State of South Dakota, creating the sheriffs of the different counties inspectors of horses, prescribing their duties and fixing their compensation therefor, and prohibiting railroad, steamboat, ferry boat and bridge companies from receiving branded horses for shipment out of the State of South Dakota without first being inspected.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SHERIFFS ARE HORSE INSPECTORS.] That the sheriffs of the different counties of the State of South Dakota are hereby created inspectors of horses for their respective counties, whose duties shall be as hereinafter defined and who shall receive for their services as such inspectors of horses, the sum of five dollars for each day and two and one-half dollars for each half day while actually and necessarily engaged in their duties as such inspectors, which compensation shall be paid out of the general fund of the county as are other expenses of the county.

§ 2. DUTY OF INSPECTORS.] It shall be the duty of the inspector of horses wherever he shall have knowledge of the intended shipment of any

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*Amended by chap.
120 Laws of 1905*

branded horses from his county for the purpose of being removed from the State of South Dakota, to immediately repair to the proposed place of shipment in his county and make a careful inspection of said horses about to be taken out of the State of South Dakota. He shall, after having inspected the same, make out a certificate of inspection, which certificate shall be in writing and shall be executed in triplicate and shall contain the name of the owner or shipper of said horses, the number and kind, the place from where shipped and the time thereof, the proposed destination of the horses, together with all marks and brands thereon, and shall be signed by the inspector, the original of which he shall retain in his office, a copy of which shall be filed in the office of the county auditor of the county from which the shipment is made, on or before the last day of the month in which the shipment is made and a copy of which shall be immediately delivered to the owner or shipper of said horses and when properly made out and signed as hereinbefore provided, shall entitle the owner or shipper of said horses to remove the same from the State of South Dakota and shall entitle any transportation, bridge or boat company to receive the same for shipment out of the State of South Dakota.

§ 3. DUTY OF HORSE OWNERS.] It shall be the duty of every owner or shipper of branded horses intending to ship branded horses out of the State of South Dakota to notify the inspector of horses of the proposed shipment out of the state, before the shipment thereof, in ample time to enable the inspector of horses to properly inspect the same, which notice may be either oral or in writing, but must state the time and place of proposed shipment and any person, or persons, firm, company or corporation who shall in any manner ship, take or drive any branded horses out of the State of South Dakota, without first having notified the inspector of horses thereof and without first having had the same inspected as in this act provided and without having a proper certificate of inspection thereof, or who shall make, forge or use any false or fraudulent certificate of inspection, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment in the discretion of the court.

§ 4. DUTY OF COUNTY AUDITOR.] The county auditor of each county shall, on or before the tenth day of each month, cause to be published in the official papers of the county, a report for the preceding month showing the number of horses shipped from the county, by whom and to where shipped, when and from where, together with a description of the brands thereon, which report shall be published once in said official papers in the same manner as is now provided for the publication of commissioners' proceedings and the same fees shall be allowed and paid out of the county general fund as is allowed by law for the publication of commissioners' proceedings.

§ 5. POWERS OF SHERIFF.] Each deputy sheriff of the different counties shall have the same powers to exercise the duties of inspectors of horses as they now have as deputy sheriffs, with power to act for their principal.

§ 6. CONSTRUCTION OF ACT.] Nothing contained in this act shall be so construed as to interfere with, or prevent the riding or driving of horses, while in actual use, out of the State of South Dakota, but this act is intended to apply to all branded horses about to be taken out of the State of South Dakota for sale, barter, exchange or for the open market.

§ 7. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution has become a law without his approval.

O. C. BERG,
Secretary of State.

HOUSES OF ILL FAME.

CHAPTER 154.

(H. B. 27.)

PROHIBITING PROSTITUTION AND HOUSES OF ILL-FAME.

AN ACT prohibiting prostitution and houses of ill fame and providing punishment therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. KEEPING HOUSES OF ILL-FAME.] Every person who keeps a house of ill-fame, resorted to for the purpose of prostitution or lewdness, shall be punished by imprisonment in the State prison not less than six months nor more than five years.

§ 2. PROSTITUTION.] Every person who for the purpose of prostitution or lewdness resorts to, uses, occupies or inhabits any house of ill-fame or place kept for the purpose of prostitution or lewdness and every person found in any hotel, boarding house or any other place leading a life of prostitution or lewdness upon the first conviction for violating any of the provisions of this section, shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars and such person upon second conviction for the violation of any of the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than one-hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment and such person upon the

third and each subsequent conviction for the violation of any of the provisions of this section shall be punished by imprisonment in the state prison not exceeding five years.

§ 3. EVIDENCE.] The State upon the trial of any person indicted or against whom an information has been found for keeping a house of ill-fame, may for the purpose of establishing the character of the house kept by the defendant, introduce evidence of the general reputation of the house as so kept. /287.74.76

§ 4. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved, Feb. 24. 1903.

CHAPTER 155.

185 new. 241

(H. B. 86.)

Am ch 94, 14

PROVIDING FOR THE SUPPRESSION OF GAMBLING AND HOUSES OF ILL FAME

AN ACT to amend subdivision 34 of section 1229 of the revised political code of 1903, relating to powers of city council in incorporated cities relating to suppressing improper places and practices.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT—POWERS OF CITY COUNCIL.] That subdivision 34 of Section 1229 of the Revised Political Code of 1903, be and the same is hereby amended to read as follows:

Subdivision 34. To suppress bawdy or disorderly houses, houses of ill fame or assignation within the limits of the city and within one mile of the outer boundaries of the same, and also to suppress gaming and gambling houses, lotteries and all fraudulent devices and practices for the purpose of gambling or obtaining money or property, and for such purpose may enter any building, room, tent, booth or shanty or other place where roulette, faro, keno or gift enterprises by whatever name it may be called, or gambling device, or game of chance is practiced, or allowed to be practiced and carried on within the limits of the city and within one mile of the outer boundaries of the same; and to seize and destroy any keno table, faro table, faro bank, shuffle board, bagatelle, playing cards, pigeon hole, roulette or any other instrument, device or thing used for gambling, found in any of said places; and to prohibit the sale or exhibition of obscene or immoral publications, prints, pictures or illustrations; and the provisions of this subdivision, and the powers herein granted shall extend to all cities in this state, whether incorporated under a special charter or the general laws.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency, exists, it is hereby provided that this act shall take effect from and after its passage and approval.

Approved Feb. 24. 1903.

INSANE PATIENTS.

CHAPTER 156.

(H. B. 206.)

RELATING TO THE CARE OF INSANE PATIENTS.

AN ACT to amend section 2818 of article 4, of the revised political code of 1903, relating to care of insane patients.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2818 of Article 4, of the Revised Political Code of 1903, be amended to read as follows:

Section 2818. On application to the commissioners on behalf of persons alleged to be insane and whose admission to the hospital is not sought, made substantially in the manner above described and asking that provisions be made for their care as insane, either public or private, within the county, and on proof of their insanity and need of care, as above pointed out, the commissioners may provide for their care, protection and restraint as in the case of other applications, *Provided, however*, that if any inmate or inmates of the South Dakota Soldiers' Home shall be adjudged to be insane such inmate or inmates shall be received and cared for at the hospital for the insane, and all expenses for the care, board, keeping and transportation for such persons shall be a charge upon the state.

Approved March 6th, 1903.

INSPECTION OF SHEEP.

CHAPTER 157.

(H. B. 98.)

PROVIDING FOR THE INSPECTION OF SHEEP.

AN ACT providing for the inspection of sheep driven into the state, and fixing the punishment for the violation thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. NOTICE MUST BE GIVEN TO SHEEP INSPECTOR.] Any person intending to drive, or cause to be driven, from any other state or territory any sheep into the State of South Dakota shall before driving them across the state line give a written notice of not less than three days to the sheep inspector of the county into which said sheep are about to be driven, or to the sheep inspector of the next nearest county having such inspector, in case the county into which said sheep are about to be driven has no sheep inspector at the time of such proposed action and of the particular point on the state line at which such crossing is intended to be made.

§ 2. DUTY OF INSPECTOR.] It shall then be the duty of the sheep inspector so notified to forthwith meet and inspect said sheep at the state line, and he may compel the owner thereof to thoroughly dip said sheep in some good sheep dip before permitting their entry into this state, if he shall deem such dipping necessary. If said sheep are free from scab and infectious and contagious disease said inspector shall give to the owner of said sheep a certificate to that effect, which certificate shall authorize the owner to take said sheep into the state; but should said inspector find said sheep to be affected with scab or any infectious or contagious disease, he shall take charge of them and quarantine them for ninety days, or such part thereof as he shall deem necessary, in the manner provided in Section 3026 of the revised political code of this state. The owner of said sheep shall, under the direction of the sheep inspector, and at his own expense, then provide a suitable range in the vicinity of the state line during the period of quarantine. Said sheep shall not be taken in any manner into this state until the period of quarantine established by the inspector has expired and not until said inspector shall have furnished his certificate to the owner that said sheep are free from scab and other infectious and contagious diseases.

§ 3. COMPENSATION OF INSPECTOR.] Said sheep inspector shall receive such compensation for services required by this act as is provided by section 3033 and 3037 of the revised political code for like services in other cases.

§ 4. VIOLATION—MISDEMEANOR.] Any person or persons who shall

drive or attempt to drive sheep from any other state or territory into this state without having given the notice to the sheep inspector as required in the foregoing section, or who shall refuse to submit to any of the acts of the sheep inspector directed by the foregoing sections, or who shall drive said sheep into this state without having first received a certificate from the proper sheep inspector that said sheep are free from scab and infectious and contagious diseases, shall be guilty of misdemeanor.

Approved February 16, 1903.

INSURANCE.

CHAPTER 158.

(H. B. 176.)

PROHIBITING COMBINATIONS BETWEEN INSURANCE COMPANIES.

AN ACT prohibiting combinations or agreements between two or more fire insurance companies, fixing rates and prescribing penalties therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. COMBINATIONS PROHIBITED.—PENALTY FOR VIOLATION.] Any combination, agreement, confederation, compact or understanding made and entered into either directly or indirectly by or between two or more fire insurance companies insuring property against loss or damage by fire and loss or damage from the elements, transacting business within this state, or between officers, agents or employes of any such companies relating to the rates to be charged for insurance, regulating and fixing the minimum price or premium to be paid for insuring property located within this state, the amount of commission to be allowed agents for procuring insurance or the manner of transacting the business of fire or other casualty insurance within this state, is hereby declared to be unlawful and any such company, officer or agent violating this provision shall be deemed guilty of a misdemeanor and on conviction thereof in any court having jurisdiction shall pay a penalty of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense, to be recovered for the use of the general fund of the state, and any such company, corporation or association so offending shall not be permitted to transact business within this state.

§ 2. AFFIDAVIT MUST BE MADE WHEN CALLED FOR.] Any fire insurance company, corporation or association desiring to transact business within this state shall in addition to the requirements now provided for

by law furnish the insurance commissioner of this state on or before the first day of July in each year, and at any other time during the year when called upon by the insurance commissioner of this state as one of the conditions for being permitted to transact business within this state an affidavit subscribed and sworn to by the president or secretary or managing officer of such corporation or association before competent authority stating that said company of which he is an officer has not violated any of the provisions of the foregoing act, naming them, and such affidavit shall be in the following form:

STATE OF }
County of } ss.

I,, being first duly sworn, depose and say that I am one of the managing officers of the Company or association, and that said association has not entered and will not enter into any combination or agreement with any other fire insurance company or companies whatsoever by which there is any understanding of whatsoever kind or character either directly or indirectly tending to fix or establish a uniform price or premium for fire insurance in the State of South Dakota, or any agreement whatever either directly or indirectly relating to the rates to be charged for insurance within said state.

§ 3. ANY OFFICER OR EMPLOYE OF INSURANCE COMPANIES MAY BE SUMMONED TO APPEAR BEFORE COMMISSIONER.] The commissioner of insurance of this state is hereby authorized to summon and bring before him for examination under oath any officer or employe of any fire insurance company transacting business within this state suspected of violating any of the provisions of this act; and on complaint in writing made to him by two or more residents of this state charging such company under oath upon their knowledge or information and belief with violating the provisions of this act, said insurance commissioner shall summon and cause to be brought before him for examination under oath any officer or employe of said company; and if upon such examination and the examination of any other witnesses that may be produced and examined, the insurance commissioner shall determine that said company is guilty of a violation of any of the provisions of this act, or if any officer shall fail to appear or submit to an examination after being duly summoned, said commissioner shall forthwith issue an order revoking the authority of such company to transact business within this state, and such company shall not thereafter be permitted to transact the business of fire insurance in this state at any time within one year from the time of such revocation.

§ 4. TESTIMONY NOT TO BE USED AGAINST PERSON MAKING SAME.] The statements or declarations made or testified to by any such officer or agent in the investigation before the commissioner as provided in this act shall not be used against any person making the same in any criminal prosecution against him and no person shall be excused from testifying for the reason that his testimony so given will tend to criminate him.

§ 5. REPEAL.] All acts and parts of acts in conflict with the foregoing provisions are hereby repealed.

Approved, March 9, 1903.

CHAPTER 159.

(S. B. 227.)

EMPOWERING THE BOARD OF CHARITIES AND CORRECTIONS TO PROTECT BUILDINGS FROM FIRE DURING THE ERECTION THEREOF.

AN ACT to empower the board of charities and corrections to expend money to protect buildings from fire during the erection thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOARD MAY INSURE BUILDINGS.] The state board of charities and corrections is hereby authorized and empowered to expend from any appropriation of money for the construction of any public building that may lawfully be constructed under their supervision, or from any appropriation made for such purposes, sufficient funds to purchase and secure such protection from loss by fire during the erection of such building as may be proper in the judgment of said board.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] *Whereas*, there is no sufficient law upon the subject of this act, an emergency exists, and is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 160.

(S. B. 206.)

RELATING TO PUBLICATION OF INSURANCE STATEMENTS.

AN ACT to amend section 593 of the revised civil code of 1903, being section 1 of chapter 108 of the session laws of the State of South Dakota for the year 1893, relating to publication of insurance statements.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 593 of the civil code of the State of South Dakota, revision of 1903, being Section 1 of Chapter 108, of

the Session Laws of South Dakota for the year 1903 [1893], be and the same is hereby amended to read as follows:

Section 593. Publication of Statements—Compensation.] Every insurance company doing business in this state must transmit to the commissioner of insurance a statement of its condition and business for the year ending on the preceding thirty-first day of December, which shall be rendered on the first day of January in each year, or within two months thereafter, except that foreign insurance companies shall transmit their statements of business, other than that taken in the United States prior to the following first day of May. Such statement must be published at least three times in a newspaper of general circulation, printed and published in each judicial circuit of the state in which the insurance company shall have an agency. Statements for publication shall be made out on blanks, furnished by the commissioner of Insurance and the commissioner of insurance's certificate of authority for the company to do business in this state shall be published in connection with said statement of such company doing business in this state. Proof of publication, to-wit: The printer's affidavit of the fact shall be filed with the commissioner of insurance in all cases which affidavit shall state that said insurance company has paid such newspaper the authorized rate for publishing legal notices, and that the full amount named inures to the sole benefit of the publisher or publishers thereof, and that no agreement or understanding for the division thereof has been made with any person, and that no part thereof has been agreed to be paid to any person whomsoever and that every affidavit of publication shall state in plain terms the full amount authorized herein has been charged and collected for such publication. *Provided*, the commissioner of insurance shall select three newspapers of general circulation published in each of the judicial circuits, from which said company may select one in which said statements shall be published. The proof of publication, herein required, shall be filed with the commissioner of insurance within four months from the time of the filing of the annual statement. This law is intended to define the lawful rate for the publication of insurance statements. Nothing in this act shall apply to any fraternal or benevolent life insurance association organized under the laws of this state.

Approved March 10, 1903.

CHAPTER 161.

(H. B. 90.)

RELATING TO MUTUAL FIRE INSURANCE COMPANIES.

AN ACT to amend section 684 of article 16 of the civil code of the revised laws of 1903, relating to mutual fire insurance companies.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 684 of article 16 of the civil code of the revised laws of 1903 be amended so as to read as follows:

Section 684. Upon filing the annual statement, the Commissioner of Insurance, if he shall find the same to be correct and according to law, and that the company making the report is in a solvent condition, shall issue a license to the company filing the same in like manner as provided for joint stock insurance companies.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 10, 1903.

CHAPTER 162.

(H. B. 140.)

PROVIDING THAT THE AMOUNT OF INSURANCE WRITTEN UPON REAL PROPERTY SHALL BE TAKEN CONCLUSIVELY TO BE THE TRUE VALUE THEREOF.

AN ACT providing that the amount of insurance written upon real property shall be taken conclusively to be the true value thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMOUNT WRITTEN SHALL BE TAKEN CONCLUSIVELY TO BE TRUE VALUE.] Whenever any policy of insurance shall be written to insure any real property in this state including structures on land owned by another than the insured, against loss by fire, tornado or lightning, and that property insured shall be wholly destroyed without criminal fault on the part of the insured or his assigns, the amount of the insurance written in such policy shall be taken conclusively to be the true value of the property insured, and the true amount of loss and measure of damages.

§ 2. WHEN APPLICABLE.] This act shall apply to all policies of insurance hereafter made or written upon real property including struc-

tures situated upon land owned by another than the insured in this state, and also to the renewals which shall hereafter be made, of all policies heretofore written in this state, and the contracts made by such policies and renewals shall be construed to be contracts made under the laws of this state.

§ 3. COURT TO ALLOW ATTORNEY'S FEES.] The court upon rendering judgment against an insurance company, upon any such policy of insurance, shall allow the plaintiff a reasonable sum as an attorney's fee, to be taxed as a part of the costs.

§ 4. REPEAL.] All acts and parts of acts in conflict with the foregoing provisions are hereby repealed. This act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1903.

Chap 163
Ch 128 - '05

CHAPTER 163.

(H. B. 196.)

RELATING TO MUTUAL INSURANCE COMPANIES.

AN ACT to amend section 621 and repeal section 630 of article 13 of the revised Civil Code of 1903, relating to mutual insurance and causing mutual insurance organizations and corporations created under the provisions of chapter 70 and 71 of the laws of 1897, to be deemed bound by, subject to and organized under chapter 3, Article 13 of the Revised Civil Code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 621 of the revised civil code of 1903 be amended to read as follows:

Section 621. AMENDMENT.] Any corporation formed under this act, may write insurance upon dwelling houses, stores and upon all kinds of buildings, and upon household furniture, machinery, growing crops, live stock and other property against loss or damage by fire, lightning, cyclone, tornado or hail. *Provided*, that in all cases where such corporations take notes from their members as evidence of indebtedness for unpaid premiums or assessments, such notes shall be non-negotiable. *Provided, further*, that in all cases where such corporation shall take from its members, as evidence of indebtedness for unpaid premiums or assessments such notes shall have printed in large type, or plainly written across the face thereof in ink the word "non-negotiable" and any person or agent who shall take any note as evidence of any such indebtedness for unpaid premiums or assessments, unless so printed or written, shall be guilty of a

misdemeanor and upon conviction shall be punished by a fine of fifty dollars or imprisonment in the county jail for a period of thirty days.

§ 2. Any corporation organized under, and by virtue of the provisions of chapter 70 and 71 of the laws of 1897, shall be deemed bound by, subject to and organized under chapter 3, article 13 of the revised civil code of 1903, being section 614 to 633 thereof inclusive and this act amendatory of section 621 thereof.

§ 3. Section 630 of the revised civil code of 1903 and all acts and parts of acts in conflict with the foregoing be and the same are hereby repealed.

Approved March 12, 1903.

CHAPTER 164.

(H. B. 261.)

see ch 247-1913

RELATING TO INSURANCE ON PUBLIC BUILDINGS.

AN ACT to amend section 319 of the political code revised statutes of 1903 in reference to insurance of public buildings and disposition of funds therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 319 of the political code of the revised statutes of 1903 of the State of South Dakota, be and the same is hereby amended so as to read as follows:

Section 319. In the event of a loss occurring under any policy upon any public building or property insured as provided in the preceding section the money received from the insurance shall be used and expended by the governor or state board or authority having control or supervision of such buildings in the erection or repair thereof upon the site and in the place of such building or property so insured or destroyed and such building or property shall be occupied and used for the same purpose as that damaged or destroyed. All moneys heretofore or hereafter received from such insurance shall forthwith be paid to and deposited with the state treasurer and the full amount thereof placed to the credit of the local fund for the building or institution suffering the loss and are hereby appropriated to, and shall be disbursed for, the purposes above specified at the instance of the Governor or state board of authority having control or supervision of such building or property, upon the warrants of the state auditor drawn upon such fund.

§ 2. That all acts and parts of acts in conflict with the foregoing

provisions be and the same are hereby repealed.

§ 3. An emergency is hereby declared to exist and this act shall be in force from and after its passage and approval.

Approved March 12, 1903.

INTOXICATING LIQUORS.

See ch-247 Laws 1909
CHAPTER 165.

(S. B. 231.)

117 Nov 150

AN ACT to amend section 2844 of the revised political code of 1903, in relation to the sale or giving away of spirituous, malt, brewed, fermented or vinous liquors in certain cases.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 2844 of the Revised Political Code of 1903, be and the same is hereby amended to read as follows.

Section 2844. UNLAWFUL TO SELL TO CERTAIN PERSONS.] It shall not be lawful for any person to sell, furnish or give away any spirituous, malt, brewed, fermented or vinous liquors to any minor, to any intoxicated person, nor to any person in the habit of getting intoxicated, nor to any person when forbidden in writing so to do by the husband, wife, parent, child, guardian, or employer of such person, or the supervisor of the township, or the president or a trustee of a town, mayor of a city, the board of county commissioners of the county where such person shall reside or temporarily remain. The fact of selling, giving or furnishing any liquor in any place where intoxicating liquors are sold or kept for sale to any minor, or to any intoxicated person, or to any person in the habit of getting intoxicated, or to any person when forbidden in writing so to do by the husband, wife, parent, child, guardian or employer of such person, or by the supervisor of the township or the president or the trustee of the town mayor of the city or board of county commissioners of the county where such person shall reside or temporarily remain, shall be prima facie evidence of an intention on the part of the person so selling, giving or furnishing such liquor to violate the law: provided it shall be unlawful for any board or other person authorized by law to issue licenses under any of the provisions of this act to grant any such license to any person under twenty-one (21) years of age and it shall also be unlawful for any person to whom any license may be granted to employ any person under twenty-

one (21) years of age as a bartender or in any other capacity in connection with the place or room where intoxicating liquors are sold."

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 10, 1903.

Am ch 227 - 1915
CHAPTER 166.
Am ch 254 - 1913
(H. B. 123.)

138 m 290
139 m 290

State ex rel. *Crutcher v. Barber*, 101 m 1078

RELATING TO THE MANUFACTURE AND SALE OF SPIRITUOUS AND INTOXICATING LIQUORS. 118 m. 703.

AN ACT to amend section 2856 of the revised political code of 1903, being section 23 of chapter 72 of session laws of the state of South Dakota for 1897, entitled: An act to provide for the licensing, restricting and regulation of the business of the manufacture and sale of spirituous and intoxicating liquors.

113 m. 878

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2856 of the revised political code of 1903 being section 23 of chapter 72 of the session laws of the State of South Dakota for 1897, be and the same is hereby amended so as to read as follows:

nm 1696

Section 2856. QUESTION TO BE SUBMITTED TO VOTERS WHEN.] At the annual municipal election held in any township, town or city in this state, for general municipal purposes, the question of granting permits to sell intoxicating liquors at retail within the corporate limits of such township, town or city shall be submitted to the legal voters thereof upon petition signed by (25) legal freeholder voters of such township, town or city, to be filed with the clerk or auditor of such township, town or city, thirty days before election, which petition shall state that a vote is desired upon such question. The question shall be submitted upon a separate ballot conforming with the general election laws of the state, upon which ballot there shall be printed the words "shall intoxicating liquors be sold at retail?" before which words there shall be printed the words "yes" and "no" and any voter in favor of the sale of such liquors as aforesaid shall mark the word "yes" with a cross (X) and any voter opposed to such sale shall mark the word "no" with a cross (X) and if a majority of the voters of such township, town or city shall vote in favor of such sale of intoxicating liquors at retail, the corporate authorities thereof shall grant permits for such sale for the ensuing year in accordance with the provisions of this act, but if a majority of the voters shall vote against such sale, no

115 m. 533

112 m. 129

128 m. 74

such permits shall be granted.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

CHAPTER 167.

(S. B. 76.)

Rep. Ch. 281-191

RELATING TO INTOXICATING LIQUORS.

AN ACT entitled an act amending section 2857 of the Revised Political Code 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 2857 of the revised political code of 1903 be amended to read as follows:

Section 2857. AMENDMENT.] Before the city council of any city, or the board of trustees of any township shall receive any license or grant a permit for the sale of intoxicating liquors at retail within such city, town or township, an application shall be made in writing to said corporate authorities, giving the name, residence and location of the place where any person, firm or corporation intends to engage in the business of selling intoxicating liquors at retail, and accompanying the application there shall be a petition, signed by twenty legal voters all of whom shall be freeholders of the incorporated city, village, town or township in which such person, firm or corporation intends to engage in business as retail dealer, above the age of twenty-one years, stating that the person, firm or corporation about to engage in such business of selling intoxicating liquors at retail is a person of good moral character, and one who can safely be trusted to engage in the business or calling of selling intoxicating liquors at retail, which application and petition shall be filed with the city, town or township authorities at least twenty days before such license shall be received or any permit granted; and notice of such application shall be published in a legal newspaper of the city, town or township wherein such business is to be conducted. Or in case no legal newspaper is published there then publication shall be made in the legal newspaper of the county published nearest to the place wherein such business is to be conducted for two successive weeks, stating the time and place where such applica-

tion will be heard by said corporate authorities, at which time any person or persons may appear before said corporate authorities and give any reasons why such license should not be received or permit granted to sell intoxicating liquors at retail.

Approved March 12, 1903.

JOURNAL BOXES.

CHAPTER 168.

(S. B. 153)

PREVENTING DESTRUCTION OF JOURNAL BOXES.

AN ACT making the wilful or malicious taking or removal of the waste, packing, brass or brasses from any journal box or boxes of any locomotive, engine, tender, carriage, coach, car, caboose or truck, used or operated, or capable of being used or operated, upon any railroad, whether the same be operated by steam or electricity, a felony, and providing penalties therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. WILLFUL DESTRUCTION OF JOURNAL BOXES—FELONY.] That if any person shall willfully and maliciously take or remove the waste or packing or brass or brasses from any journal box or boxes of any locomotive, engine, tender, carriage, coach, caboose or truck used or operated or capable of being used or operated upon any railroad, whether the same be operated by steam or electricity, the person so offending shall be guilty of felony, and on conviction shall be sentenced to pay a fine not exceeding five hundred dollars or to undergo an imprisonment in the state penitentiary for a period not exceeding five years, or both, or either, at the discretion of the court.

§ 2. EMERGENCY.] *Whereas*, an emergency exists, therefore this act shall take effect and be in force on and after its passage and approval.

Approved March 9, 1903.

JURORS.

CHAPTER 169.

(H. B. 197.)

JURY LISTS.

AN ACT to amend sections 711, 713, 714 and 715 of the revised political code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. JURY LIST—HOW PREPARED.] That section 711 of the revised political code of 1903 be, and the same is hereby amended so as to read as follows:

[Section 711.] In each of the counties not organized into civil townships, where a circuit court is directed or appointed to be holden, there shall be selected by the county commissioners, from the last annual list of persons subject to jury duty filed by the county assessor with the county auditor as provided in section 713 of the said revised political code, and furnished to the clerk of the circuit court, from which to draw the grand and petit jurors, two hundred names of persons qualified to serve as jurors, and such number shall at all times be kept full by completing the number after each term of court when a jury or jurors have been drawn and summoned; and at the end of a term of a circuit court the clerk thereof shall make requisition upon the county commissioners for the furnishing of so many names as have been drawn so as to keep the said number of two hundred full; and such commissioners shall, at their first meeting after receiving such requisition, furnish such number of names of persons qualified to serve as jurors, to complete and keep full such number of two hundred:

Provided, that if in any such county, not organized into civil townships, the number of two hundred names of qualified persons can not be selected from said list so furnished by the assessor to the county auditor as before stated, then one hundred names of qualified persons shall be selected and deemed a full and complete number from which to draw grand and petit jurors as aforesaid.

Provided, further, that upon discovery by the court, or judge thereof, that any person whose name appears upon said list of two hundred, is a non-resident, or disqualified, such court, or judge thereof, may order such name stricken from the said list, whereupon it shall be the duty of the clerk of said court to make requisition upon the county commissioners for names to supply the place of such names so stricken from said list, and it shall be the duty of the county commissioners to supply such names in

the same manner as provided for supplying names to complete said list after a jury has been drawn and summoned.

§ 2. ASSESSOR'S DUTY.] That Section 713 of said revised political code of 1903, be and the same is hereby, amended so as to read as follows:

The several county, township, city and town assessors shall, when making the annual assessment, make a list in a book provided by the county for that purpose, of all the male inhabitants of their respective assessment districts between the age of 21 and 60 years, and file such list with the county auditor, with the assessment roll; which book shall be known and marked as the jury list of the assessors district from which it is returned.

§ 3. COUNTY COMMISSIONERS DUTY.] That Section 714 of said revised political code of 1903, be and the same is hereby amended so as to read as follows:

Whenever the county commissioners of any county shall have determined the number of names for each organized civil township, and for each incorporated city or town, if any there be in such county, the said board of commissioners shall at the same meeting select from the last annual jury list of such township, city or town, filed with the county auditor by the assessor of such township, city or town, and write each name so selected upon a separate ticket, and shall also record a list of such names so written and selected in a book to be kept for that purpose. The said board of county commissioners shall then compare the names on said tickets with such recorded list of names to see that the tickets are correct. The tickets shall then be folded, placed in a box, or some other receptacle, and shaken up; one member of the board shall then select by lot from the tickets in said box or receptacle the proper number of names so apportioned to said township, city or town as the case may be; and the county auditor shall then record in a book to be kept for that purpose, such names in the order in which they are drawn.

Provided, however, that in counties which shall, on the first Monday in July, 1903, have a partial or complete list of two hundred names in the hands of the clerk of courts thereof, nothing in this act shall be construed as requiring an entirely new list to be furnished, but shall only require in such cases that such list be completed at the regular meeting of the board of county commissioners in July, 1903, and at all times thereafter kept complete in the manner herein provided for making up and furnishing a full list.

§ 4. COUNTY AUDITOR—DUTY OF.] That Section 715 of said revised political code, of 1903, be, and the same is hereby, amended so as to read as follows:

The said county auditor shall immediately thereafter deliver to the clerk of the circuit court of his county a list of the names so drawn, and such clerk of the court shall make out and record in a book to be used for that purpose a list of the names returned to him as in this article provided:

Provided, however, that any irregularity in the acts of the assessors in furnishing the list of persons subject to jury duty, or of the county com-

missioners in drawing, selecting or furnishing the names of jurors to the clerk of court, shall not invalidate the list so furnished to such clerk of court.

Provided, further, that upon discovery by the court, or judge thereof, that any person whose name appears upon said list of two hundred is a non-resident, or disqualified, such court, or judge thereof, may order such name to be stricken from the said list; whereupon it shall be the duty of the clerk of said court to make requisition upon the county commissioners for names to supply the places of such names so stricken from said list, and it shall be the duty of the county commissioners to supply such names in the same manner as provided for supplying names to complete said jury list after a jury has been drawn and summoned.

§ 5. REPEAL.] That all acts and parts of acts in conflict with this act are hereby repealed.

§ 6. EMERGENCY.] Whereas, an emergency exists, this act shall be in full force and effect from and after its passage and approval.

Approved, March 4, 1903.

CHAPTER 170.

(H. B. 231.)

PREVENTING UNFAIR SELECTION OF JURORS.

AN ACT to prevent the unfair selection of jurors.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. MUST NOT SOLICIT SHERIFF.] No person shall make application to a sheriff or deputy sheriff of a county in this state, to summon either himself or any other designated person to serve as juror in any court.

§ 2. DUTY OF SHERIFF.] Any sheriff or deputy sheriff to whom an application is made to summon a designated person to serve as juror, shall forthwith report the name of the person making the application and the name of the person designated, to the presiding Judge of the circuit court of the circuit in which such application is made, for entry in the minutes of the court.

§ 3. PENALTY.] The violation of any of the provisions of this act shall be a misdemeanor, and punished on conviction by a fine or not more than one hundred dollars, or by imprisonment of not more than thirty days.

Approved March 4, 1903.

CHAPTER 171.

(H. B. 233.)

CHALLENGING JURORS FOR CAUSE.

AN ACT to amend section 252 of the code of civil procedure of the State of South Dakota of 1903, relating to challenging jurors for cause.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 252 of the code of civil procedure of the state of South Dakota, of 1903, be amended to read as follows:

Section 252. Challenges for cause may be taken on one or more of the following grounds:

1. A want of any of the qualifications prescribed by the political code to render a person competent as a juror.

2. Consanguinity or affinity, within the fourth degree, to either party.

3. Standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent to either party, or being a member of the family of either party, or being a partner in business with either party, or surety on any bond or obligation for either party.

4. Having served as a juror or been a witness on a previous trial between the same parties for the same cause of action.

5. Interest on the part of the juror in the event of the action, or in the main question involved in the action, except his interest as a member or citizen of a municipal corporation.

6. Having an unqualified opinion or belief as to the merits of the action founded upon knowledge of its material facts, or some of them.

7. The existence of a state of mind in the juror evincing enmity against or bias to or against either party.

8. That he does not understand the English language as used in the courts.

9. That he has been called as a talesman and has served as a juror on the trial of a cause in any court of record in the county within two years previous to the time of his being offered as a juror, or that he is a party to a suit pending for trial in that court at that term.

10. Having applied directly or indirectly to a sheriff or deputy sheriff of the county in which he is drawn to be summoned as a juror at the term of court then held.

Approved March 12, 1903.

CHAPTER 172.

(H. B. 232.)

RELATING TO CHALLENGING JURORS FOR IMPLIED BIAS.

AN ACT to amend section 339 of the code of criminal procedure of the State of South Dakota of 1903, relating to challenging jurors for implied bias.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 339 of the code of criminal procedure of the State of South Dakota of 1903, be amended to read as follows.

Section 339. A challenge for implied bias may be taken for all or any of the following causes, and for no other.

1. Consanguinity or affinity within the sixth degree, inclusive, to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant.

2. Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or in his employment on wages.

3. Being a party adverse to the defendant in a civil action, or having complained against, or been accused by him in a criminal action.

4. Having served on a grand jury which found the indictment, or on a coroner's jury which inquired into the death of a person whose death is the subject of the indictment.

5. Having served on a trial jury which has tried another person for the offense charged in the indictment.

6. Having been one of a jury formerly sworn to try the indictment or information, and whose verdict was set aside, or which was discharged without a verdict, after the cause was submitted to it.

7. Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

8. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty, in which case he shall neither be permitted nor compelled to serve as a juror.

9. Having been called as a talesman and served as a juror on the trial of a cause in any court of record in the county within two years previous to the time of his being offered as a juror, or that he is a party to a suit pending for trial in that court at that time.

10. Having applied directly or indirectly to a sheriff or deputy sheriff of the county in which he is drawn to be summoned as a juror at the term of court then held.

Approved March 11, 1903.

LANDS.

CHAPTER 173.

(H. B. 279.)

RELATING TO LAND ACQUIRED BY RELICTION.

AN ACT to compel the subdivision and survey of land acquired by reliction and for assessment and taxation of the same.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. LAND MUST BE SURVEYED AND MARKED.] That it shall be the duty of all owners of land acquired by reliction to cause the same to be apportioned and divided among the various owners entitled thereto and to have the same surveyed, marking each separate tract "Relicted lot No." numbering consecutively, beginning with the number "1" by the county surveyor and to cause such survey to show the area of and boundaries of each tract to be recorded in the office of the register of deeds within the county or counties where such land is situated within three months from the time that this act shall take effect.

§ 2. VIOLATION—DUTY OF OFFICERS.] In the event that any owner or owners of land acquired by reliction shall fail or neglect to comply with the provisions of section one of this act within the time therein specified the supervisors of the township or townships or trustees or city council of the town or city where such relicted land or any part thereof is situated or either of them may institute an action in the circuit court of the county where such land or any part thereof is situated against the owners of such lands to compel and cause the subdivision of such relicted lands in the proper proportions among the various owners thereof and that the same be surveyed by competent surveyor and such survey showing the area and boundaries of such relicted land to which each owner is entitled to be made and recorded in the office of the register of deeds of the county or counties where any such land or any part thereof is situated.

§ 3. COURT MAY ORDER LAND SURVEYED AND MARKED—OWNERS TO PAY COST OF.] The circuit court may upon the trial of such action ascertain and determine by its judgment the owners of the relicted land and cause the same to be surveyed and shall appoint three competent disinterested persons one of whom shall be a competent surveyor, to divide and survey such relicted lands so as to show the boundaries and area of the amount of such relicted lands to which each owner is entitled in accordance with the directions and judgment of said court, and that such commissioners shall make their report in writing including an accurate plat and sur-

vey of such relicted land, marking each separate tract "Relicted lot No. . . ." numbered consecutively, beginning with the number "1", with the clerk of the circuit court within ninety days from the date of the order of the court appointing them, and the court may adjudge the defendants who are owners of such land or any part thereof to pay the costs and disbursements of such action in such proportions as the court may deem just and equitable, including a reasonable amount for the survey; the fees of recording and reasonable counsel fees for the plaintiff and three dollars per day for the two commissioners other than the surveyor and ten cents per mile for each mile by them necessary traveled.

§ 4. COURT MAY ORDER JUDGMENT—WHERE FILED.] That the next succeeding term of such court or at any subsequent term to which the same may be continued, such action shall be brought on for final determination upon the report and survey of said commissioners and the court may adopt or modify the same so as to allow each owner such proportion of such relicted land as he may be lawfully entitled to and enter judgment accordingly, a certified copy of which judgment, showing the area of such relicted land to which each owner is entitled shall be recorded in the office of the register of deeds in each county where such land or any part thereof is situated. Proceedings for new trial and appeal may be had the same as in other civil cases.

§ 5. DUTY OF ASSESSORS.] That it shall be the duty of the assessors where such lands are situated to assess such land by number of lots in the same manner as other real estate is assessed and such lands shall be taxed in the same manner as other real estate and the description of such relicted land by the number of the lot thereof without giving the metes and bounds shall be deemed a sufficient description in all assessments, and notices and taxation proceedings.

§ 6. EMERGENCY.] Whereas large quantities of relicted lands now escape assessment and taxation an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 174.

(S. B. 229.)

CEDING LAND TO THE UNITED STATES.

AN ACT authorizing the United States to use certain common school lands in Aurora County for the purpose of constructing and maintaining an artesian well and reservoir.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. CEDING CERTAIN LANDS TO THE UNITED STATES.] That authority is hereby given to the United States to use such portions of section 16,

township one hundred and three north, of range sixty-three west, of the fifth principal meridian, in the county of Aurora, as may be necessary for the purpose of constructing and maintaining an artesian well and reservoir in what is known as Fish lake in said county.

Approved March 6, 1903.

LIVE STOCK.

CHAPTER 175.

(H. B. 290.)

PREVENTING UNLAWFUL APPROPRIATION OF LIVE STOCK.

AN ACT entitled an act to prevent the unlawful appropriation of live stock upon the open range and to provide a penalty therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. UNLAWFUL TO TAKE LIVE STOCK.] It shall be unlawful for any person or persons to wilfully and without the consent of the owner take possession of any horse, mule, cow, steer, bull or other animal found running at large upon the open range for the purpose or with the intent of working, riding or driving the same even though there is no intent on the part of said person to steal the same, or to drive any horses, mules or cattle not his own, off, or away from its usual range with intent to cause the same to become strayed away or lost to the owner.

§ 2. PENALTY FOR VIOLATION.] Any person or persons, company, firm or corporation, who shall violate any of the provisions of section one of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than two hundred dollars or be imprisoned in the county jail not to exceed six months or by both such fine and imprisonment in the discretion of the court.

Approved March 10, 1903.

MEDICAL EXAMINERS.

CHAPTER 176.

(H. B. 150.) 134 new. 53

ESTABLISHING A BOARD OF MEDICAL EXAMINERS.

An Act to establish a Board of Medical Examiners, making an appropriation for the same, regulating the practice of medicine, surgery and obstetrics, providing for licensing physicians and surgeons and providing for penalties for violations of such regulations of the practice of medicine, surgery and obstetrics.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOARD CREATED.] There is hereby created a board of medical examiners for the purpose of examination, regulation, licensing and registration of physicians and surgeons in the State of South Dakota. Said board shall consist of seven members, who shall have been residents of the State of South Dakota for not less than five years preceding their appointment not more than two of whom shall be from the same county.

ay. Ch. 138 Laws of 1903
§ 2. GOVERNOR TO APPOINT.] The governor shall immediately upon the taking effect of this act appoint seven skilled and capable physicians who shall constitute said board, two of whom shall hold their office for one year, two for two years, and three for three years from the date of their respective appointments, and until their successors are appointed, and the Governor shall each year thereafter on or before the third day of July appoint for the term of three years two or three as the case may be, skilled and capable physicians to fill the vacancies caused by the expiration of the terms of such members as above provided. The Governor shall fill by appointment all vacancies occasioned by death or otherwise.

§ 3. BOARD—OF WHOM CONSIST.] The said board shall consist of not more than four members from the school known as Regular, not more than two from the school known as Homeopath, and not more than one from the school known as Eclectic. Five members of this board shall constitute a quorum for the transaction of business.

§ 4. MEETING OF—ELECTION OF OFFICERS—BOND OF.] The board shall meet at Huron, South Dakota, at a date to be named by the Governor, for organization in 1903, and shall elect from their number a president, vice-president, and secretary who shall also act as treasurer and all officers shall be elected annually thereafter. Said board shall procure a common seal. The secretary and treasurer shall execute a bond, to the State of South Dakota, in the penal sum of two thousand dollars (\$2,000) with two or more sufficient sureties. Said bond shall be conditioned upon the faithful discharge of his duties, and shall be approved by the Governor.

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Ch 136. 03

§ 5. MEETINGS—WHEN HELD.] The Board shall hold two regular meetings each year, beginning on the second Wednesday of July, and the second Wednesday of January of each year, and such additional meetings at such times and at such places as the board may deem advisable. The board shall have power to make rules and regulations for the government of the said board and its officers, and for the proper discharge of its duties.

§ 6. RECORD MUST BE KEPT.] Said Board shall keep a record of all proceedings thereof, and also a record or register of all applicants for a license together with his or her age, time spent in the study of medicine, and the location and name of all the institutions granting to such applicants degrees or certificates of lectures in medicine or surgery such register shall also show whether such applicant was rejected or licensed under this act, said record or register shall be prima facie evidence of all matters therein recorded. No member of the said board shall belong to the faculty of any medical college or university nor shall any one of them be financially interested in the manufacture or sale of drugs, or the practice of pharmacy.

§ 7. APPLICATION FOR LICENSE—QUALIFICATION OF APPLICANT.] On and after the taking effect of this act all persons desiring to begin the practice of medicine or surgery or obstetrics in any of their branches in this state shall make application to said board for a license to practice medicine, surgery or obstetrics in the State of South Dakota. Such license shall be granted to such applicants who shall give satisfactory proofs of being at least twenty-one (21) years of age and of good moral character, but only on compliance of the following conditions; the applicant shall be given such license if he shall pass an examination before the board upon the following subjects: Anatomy, physiology, chemistry, pathology, therapeutics, practice of medicine, surgery, obstetrics, gyneology, disease of the eye and ear, bacteriology, medical jurisprudence, and such other branches as the board may deem advisable, and in addition thereto shall present evidence of having attended four full courses of lectures of at least twenty-six (26) weeks each in a legally organized and reputable medical college recognized by the board of medical examiners, no two courses being in the same year and of having received a diploma from a legally organized and reputable medical college which shall be in good standing as shall be determined by the board, and said diploma must be submitted to the board for inspection and verification provided that the four courses of lectures of six months each shall not apply to applicants who graduated prior to 1898. *Amended Jan 1899*

§ 8. EXAMINATION—HOW CONDUCTED.] Said examination shall be conducted as follows: First, the applicant shall before being permitted to take the examination pay the secretary of the board an examination fee of twenty dollars (\$20.). Second, the examination shall be in writing, oral or both as the board may determine. Third, the questions on all subjects except therapeutics and practice of medicine shall be such as may be answered alike by all schools of medicine. The applicant shall if possible

be examined in therapeutics and practice of medicine by those members of the board belonging to the same school as the applicant and a license and certificate shall not be refused any applicant because of his adherence to any particular school of medicine. The average percentage of at least seventy-five per cent of correct answers shall be required of every applicant. Any applicant who shall not pass the said examination, shall be eligible to a second examination at the next regular meeting of the board or at such time as the board may designate without an additional examination fee.

§ 9. LICENSE.] Said board shall grant a license to practice medicine and surgery and obstetrics in all their branches in the State of South Dakota to each applicant who has satisfactorily passed the said examination and has fulfilled all other requirements of this act. Said license can only be granted by the consent of not less than five (5) members of the said board and which said license shall be signed by the president and secretary of the said board and attested by the seal of the board. All examination papers together with the lists of questions answered shall be kept for reference and inspection for a period of not less than three (3) years.

§ 10. LICENSE WITHOUT EXAMINATION—WHEN.] The said board may, in its discretion, accept and license upon the payment of the license fee without examination of the applicant, any license which shall have been issued to him by the examining board of the District of Columbia, or any state or territory of the United States, provided, however, that the legal requirements of such examining board shall have been at the time of issuing such certificate, or license in no degree or particular less than those of the state of South Dakota at the time when such certificate or license shall be presented for registration to the board created by this act; and *provided, further*, that the provisions of this section contained shall be held to apply only to such of said medical examining boards as accept and register the certificate or license granted by this board without examination by them of the persons holding such certificates or license. Each applicant upon making application under the provision of this section shall pay to the secretary of the board a license fee of twenty dollars (\$20).

§ 11. BOARD MAY REFUSE TO GRANT LICENSE.] The board shall have the power and authority to refuse to grant a license under this act for unprofessional, immoral or dishonorable conduct on the part of the applicant. The action of the board in refusing to grant a license under this act shall be final.

§ 12. MAY REVOKE LICENSE.] That board shall have the power and authority to revoke any license of any physician or surgeon heretofore or hereafter granted or issued upon complaint made to it on oath by one responsible person if it shall satisfactorily appear to the board, either, first; that such physician or surgeon has been guilty of unprofessional, immoral or dishonorable conduct, or second; that such physician or surgeon has been convicted of a felony, or third; if such physician or surgeon publicly professes or claims to cure, or treat disease, injury or deformity in such a manner as to deceive the public, or fourth; gross professional in-

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competency; provided, that such license shall not be revoked except after a hearing before the board of medical examiners at which at least five members of such board shall be present and of which hearing the person holding the license to be revoked shall have had not less than ten days' written notice of the time and place of said hearing and only upon due proof of the facts stated in the complaint.

§ 13. UNPROFESSIONAL OR DISHONORABLE—MEANING OF.] The words unprofessional or dishonorable conduct as used in sections 11 and 12 of this act are hereby declared to mean, first, procuring or aiding or abetting a criminal abortion. Second, the employing of what is known as cappers or steerers. Third, the obtaining of any fee on the assurance that a manifestly incurable disease can be permanently cured. Fourth, willfully betraying a professional secret. Fifth, all advertising of medical business in which untruthful or improbable statements are made or which are calculated to mislead or deceive the public. Sixth, all advertising of any medicine, or any means whereby the monthly periods of women can be regulated or the menses re-established if suppressed. Seventh, conviction of any offense involving moral turpitude. Eighth, habitual intemperance.

§ 14. PERSONS AGGRIEVED MAY APPEAL.] All persons feeling aggrieved by the action of the board in revoking their license may appeal to the circuit court of the county in which the person whose license is revoked resides, in the same manner as now provided by law in cases of appeal from the decision of a board of county commissioners, and the perfection of such appeal shall operate as a stay to the revocation of said license until the final determination thereof by the court; Provided, however, that at any time during the pendency of such appeal the said board may appeal to the court for a temporary injunction restraining the appellant from the practice of medicine, surgery or obstetrics, until the final determination and judgment on such appeal which said injunction may in the discretion of the court be issued without the requirement of any bond."

§ 15. LICENSE MUST BE RECORDED.] The person receiving a license to practice shall have the same recorded in the office of the register of deeds in the county where he resides and practices. The said register of deeds shall in July and January of each year furnish the secretary of the state board of medical examiners a list of all licenses so recorded.

§ 16. MONEYS MUST BE PAID TO STATE TREASURER..] All moneys received by the said board shall be paid to the state treasurer and shall be credited to the general fund of the state, and a receipt in duplicate for the same shall be filed with the secretary of said board of medical examiners, and in the office of the state auditor.

§ 17. COMPENSATION OF MEMBERS OF BOARD.] Each member of the board shall receive as compensation the sum of five dollars (\$5) per day for each day actually in attendance upon the meetings of the board and five cents for every mile necessarily traveled and his necessary expenses while attending such meetings. The secretary of the board of medical examiners shall receive as compensation for his services the sum of eight hundred dollars (\$800) per annum, which salary shall be in full for his

services as a member of the board. All bills for stationery, postage and other necessary expenses shall be approved by said board and sent to the auditor of the state who shall draw his warrant upon the state treasurer for the amount due.

§ 18. MEDICAL BOARD FUND ESTABLISHED.] There is hereby established a fund to be known as the medical board fund and the sum of four thousand dollars (\$4000) is hereby appropriated out of the moneys in the state treasury not otherwise appropriated to meet the expenses of carrying out the provisions of this act for two years, namely, two thousand dollars (\$2000) for the year beginning February the 15th, 1903, and ending February 14th, 1904, and two thousand dollars (\$2000) for the year beginning February the 15th, 1904, and ending February the 14th, 1905. And the state treasurer is hereby directed and required to set such sum apart to the credit of such fund subject to the orders and disbursements as herein provided for. The money in the said fund shall only be paid out by the state auditor's warrant on said fund, on an order drawn by the secretary of the said board and countersigned by the president.

174 and 53 § 19. ITINERANT PHYSICIANS MUST PROCURE ITINERANT LICENSES.
 50710 Any physician practicing medicine, surgery or obstetrics or professing or attempting to treat, cure or heal diseases, ailments or injuries by any medicine, appliance or method who goes from place to place, or from house to house, or by circulars, letters or advertisements, solicits persons to meet him or her for professional treatment at places other than his office at the place of his permanent residence is hereby declared to be an itinerant physician, and shall in addition to the ordinary physician's license as in this act provided procure an itinerant's license from the state board of medical examiners for which he shall pay to the secretary of the board the sum of five hundred dollars (\$500) per annum upon the payment of said sum of five hundred dollars (\$500) the board shall issue to the applicant therefor, a license to practice within the state as an itinerant physician for one year from the date thereof. The board may for the same reasons as specified in Sections 11, 12 and 13 of this act refuse to issue such itinerant's license, or having issued it, may revoke it for the same reasons as specified in sections 11, 12 and 13 hereof.

§ 20. PENALTY FOR PRACTICING WITHOUT A LICENSE.] Any person practicing medicine, surgery or obstetrics in any of their branches as an itinerant physician as in section 19 hereof defined without having procured such itinerant license, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars (\$500) nor more than eight hundred dollars (\$800) or imprisonment in the county jail not less than thirty days nor more than ninety days, or by both such fine and imprisonment.

§ 21. UNLAWFUL TO USE TITLE AND PRESCRIBE—WHEN.] When a person shall append or prefix the letters M. B., or M. D., or the title Dr. or Doctor or any other sign or appellation in a medical sense to his or her name or shall profess publicly to be a physician or surgeon, or who shall recommend, prescribe or direct for the use of any person any drug, medi-

cine, apparatus or other agency for the cure, relief or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound, fracture or bodily injury, or deformity after having received or with the intent of receiving therefor, either directly or indirectly, any bonus, gift or compensation, shall be regarded as practicing within the meaning of this act. *State - 1909, 103 md. 17*

§ 22. THIS ACT NOT APPLICABLE WHEN.] This act shall not apply to the commissioned surgeons of the United States army, navy or marine hospital service in actual performance of their duties, nor to regularly licensed physicians or surgeons from outside this state in actual consultation with physicians of this state nor to dentists or osteopaths in the legitimate practice of their profession nor to Christian Scientists as such, who do not practice medicine, surgery or obstetrics by the use of any material, remedies or agencies, nor to resident physicians and surgeons of this state regularly licensed and practicing in this state at the time of the taking effect of this act. *1911 md. 55*

Provided, however, that the license heretofore or hereafter granted to any physician or surgeon may be revoked for the same reason, and in the same manner as stated and provided in sections 12 and 13 hereof.

§ 23. PRESENTATION OF FRAUDULENT DIPLOMAS—PENALTY.] Any person who shall present to the board of medical examiners a fraudulent or false diploma, or one of which he is not the rightful owner for the purpose of procuring a license as herein provided or who shall file or attempt to file with the register of deeds of any county in the state a license of another representing the same to be his own, or shall falsely personate any one to whom a license has been granted or who shall file or attempt to file with the register of deeds of any county in this state, a license of another with the name of the party to whom it was granted or issued erased, and his own name inserted in its place or who shall file or attempt to file with the board of medical examiners any false or forged affidavits of identification, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) or by imprisonment in the county jail for a period of not more than thirty days or by both such fine and imprisonment. *Ann. Ch. 136 Law. 1901*

Any person who shall practice medicine or surgery or obstetrics in any of their branches in this state without having obtained a license as in this act provided shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) or by imprisonment in the county jail for a period of not more than thirty days or by both such fine and imprisonment: *provided,* that the provisions of this section shall not apply to the provisions of sections 19 and 20 of this act, nor modify or change the penalties prescribed in section 20 hereof. *Ann. Ch. 191 Law. '09*

§ 24. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the State's attorney to prosecute any and all violations of this act committed in his county.

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§ 25. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 26. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1903.

METERS.

CHAPTER 177.

(S. B. 149.)

MAKING UNLAWFUL THE THEFT OF GAS, WATER, OR ELECTRICITY.

AN ACT to make unlawful the theft by a false report of consumption of gas, water or electricity, and fixing a penalty therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. UNLAWFUL TO INJURE, ALTER OR OBSTRUCT METER.] Any person who, with intent to injure or defraud any company, body corporate, co-partnership or individual, shall injure, alter, obstruct or prevent the action of any meter provided for the purpose of measuring and registering the quantity of gas, water or electric current consumed by or at any burner, orifice or place, or supplied to any lamp, motor machine or appliance, or shall cause or procure or aid the injuring or altering of any such meter, or the obstruction or prevention of its action, or shall make or cause to be made with any gas pipe, water pipe or electrical conductor any connection so as to conduct or supply illumination or inflammable gas, water or electric current to any burner, or orifice, or lamp, or motor or other machine or appliance from which such gas, water or electricity may be consumed or utilized without passing through or being registered by a meter, or without the consent or acquiescence of the company, municipal corporation, body corporate, co-partnership or individual furnishing or transmitting such gas, water or electric current through such gas pipe, water pipe or electrical conductor, shall be punished by imprisonment not exceeding three (3) months, or a fine not exceeding two hundred and fifty (250) dollars, or both.

§ 2. Any person acting for or in the employ of any company, body, corporate, co-partnership or individual, whose duty it is to read meters and who reports to any company, body corporate, co-partnership or indi-

vidual that any consumer of gas, water or electricity has used a greater quantity of gas, water or electricity than the amount actually used by said consumer, shall be punished by imprisonment not exceeding three (3) months, or a fine not exceeding two hundred and fifty dollars (\$250) or both; and any company, body corporate, co-partnership or individual who shall collect from any consumer of gas, water or electricity, for an amount greater than that actually used by said consumer, shall be punished by a fine not exceeding five hundred dollars (\$500.)

Approved March 11, 1903.

MINES AND MINING.

CHAPTER 178.

(S. B. 99.)

ESTABLISHING A MINING EXPERIMENT STATION.

AN ACT establishing a mining experiment station as a department of the state school of mines at Rapid City, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. LOCATION AND CONTROL.] That there is hereby established a mining experiment station as a department of the state school of mines at Rapid City, South Dakota, to be under the control of the regents of education.

§ 2. OBJECT.] Said station is hereby established for the purpose of carrying on experiments in the treatment of ores and other mineral products of South Dakota, with the object of determining the most suitable and economical method of extracting values or making the products marketable.

§ 3. CHARACTER OF WORK.] There shall be performed at the station for the citizens of South Dakota assays on ores and minerals to determine the percentage of valuable contents at a nominal charge only, the charge to be fixed by the regents of education; also tests on a working scale to determine the most suitable method of treatment, at a nominal charge only, to be determined by the said regents of education.

§ 4. EXPENDITURES TO BE ACCOUNTED FOR.] All moneys appropriated for the maintenance of said mining experiment station shall be expended and accounted for by the regents as all other moneys are expended and accounted for under their rules and the laws governing such expenditures.

Approved February 14, 1903.

FOLIO—14.

CHAPTER 179.

(S. B. 147.)

LADDER-WAYS IN MINES.

AN ACT to provide a uniform system of ladder-ways in all mining shafts fifty feet or more in depth.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. LADDERWAYS REQUIRED.] In all mining shafts fifty feet or more in depth containing two or more compartments ladder-ways shall be constructed in a compartment separate from the compartment in which the cage or bucket runs, and platforms shall be built for landings at every twelve feet, with inclined ladders between said platforms.

§ 2. PENALTY FOR VIOLATION.] Any person violating the provisions of this law shall be deemed guilty of a misdemeanor, the same to be prosecuted as are other violations of the laws of this state; and upon conviction thereof the offender shall be fined not less than one hundred dollars nor more than three hundred dollars, and imprisoned not exceeding three months for each offense, in the judgment of the court or magistrate who tries the case.

§ 3. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. EMERGENCY.] Whereas, an emergency exists, this act shall take effect immediately after its passage and approval.

Approved March 9, 1903.

CHAPTER 180.

(H. B. 116.)

RELATING TO MINING CLAIMS.

AN ACT adding to the amount required to redeem from execution and mortgage foreclosure sale of unpatented mining claims the sums expended by the purchaser in annual assessment work.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REDEMPTION—PENALTY.] That in all redemptions from sales of unpatented mining claims under execution or mortgage foreclosure, there shall be added to the total amount now required by law to redeem

such sum or sums, if any, as may be necessarily and actually expended by the purchaser, after such sale and before the redemption, in performing or completing the annual assessment work, not exceeding one hundred dollars for any one claim sold;

Provided, however, that this act shall not apply to any claim or claims on which the owner or redemptioner shall himself have performed the necessary annual labor during the period above specified.

Provided, further, that it shall not be deemed necessary under this act for the purchaser to perform the annual labor on such claims until after November 1st of each year.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 2, 1903.

CHAPTER 181.

(S. B. 50.)

ESTABLISHING A UNIFORM SYSTEM OF BELL SIGNALS IN MINES.

AN ACT to establish a uniform system of bell signals for all mines operating hoisting apparatus in South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. MINES MUST ADOPT SIGNALS.] At all mines where hoisting apparatus is operated in the State of South Dakota, the following code of bell signals shall hereafter be adopted and used:

§ 2. CODE OF BELL SIGNALS.] One bell, hoist; one bell, stop, (if in motion.)

Two bells, lower men; three bells, hoist men.

Four bells, blasting signal. Engineer must answer by raising bucket or cage a few feet and letting it back slowly; then one bell, hoist men away from blast.

Five bells, steam on; six bells, steam off.

Seven bells, air on; eight bells, air off.

Three-two-two bells, send down tools.

Nine bells, danger signal (fire, accident or other danger.) Then ring number of station where danger exists. No person shall ring any signal bell except the station tender, except in case of danger or when the main shaft is being sunk.

Engineers must slow up when passing stations when men are on cage or bucket.

Station Bells.				Station Bells.			
Bells.	Pause.	Bells	No. Station.	Bells.	Pause	Bells	No. Station
2	"	1	1	4	"	1	11
2	"	2	2	4	"	2	12
2	"	3	3	4	"	3	13
2	"	4	4	4	"	4	14
2	"	5	5	4	"	5	15
3	"	1	6	5	"	1	16
3	"	2	7	5	"	2	17
3	"	3	8	5	"	3	18
3	"	4	9	5	"	4	19
3	"	5	10	5	"	5	20

If cage is wanted ring station signal. Station tender will respond in person.

If station is full of ore and station tender is wanted ring station signal

One copy of this code shall be posted on the gallows frame and one before the engineer.

§ 3. VIOLATION—PENALTY FOR.] Any person violating the provisions of this law shall be deemed guilty of a misdemeanor, the same to be prosecuted as are other violations of the laws of this state, and upon conviction thereof the offender shall be fined not less than one hundred dollars nor more than three hundred dollars, and imprisoned not exceeding three months for each offense, in the judgment of the court or magistrate who tries the case.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. EMERGENCY.] Whereas, an emergency exists, this act shall take effect immediately after its passage and approval.

Approved February 24, 1903.

CHAPTER 182

(H. B. 208.)

134 Nov. 65

RELATING TO MINERS' LIENS.

AN ACT to amend section 2573 of the revised political code of 1903, relating to miners' liens.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENTS—LIENS UPON PROPERTY TO SECURE PAYMENT FOR WORK AND MATERIAL.] That section 2573 of the revised political code of 1903 be and the same is hereby amended to read as follows:

Section 2573. Every miner or other person who at the request of the

owner or owners or his or their agents of any lode, lead, ledge or mine or deposit bearing silver, gold, cinnebar, copper or other ores, or any coal bank or mine or at the request of any contractor or sub-contractor shall perform any labor whatever on said mine, lode, lead, ledge, or deposit, or upon any mill or other property which is appurtenant to said mine, or furnish any timber, rope, nails, powder, candles, fuse, caps, rails, spikes or any other material whatever for sinking any shaft upon said property or running drifts or levels or stopes, or openings of any kind thereon or for timbering any of said workings, or who shall furnish any of said materials or any machinery of any kind or character for hoist, windlass, or any purpose for mining upon said property, or for any car track, cars, tunnels, drifts, or openings thereon, or shall perform any labor in any of said works upon said property or shall furnish any material whatever for use in or about any mill which may be appurtenant to any mining claim, or perform any labor therein, shall have a first lien prior and superior to every other lien except the lien of the state or of the United States which shall be created after the passage of this act, upon such lode, lead, ledge, mine, deposit, bank, tunnel, ditch, chute, work or improvement and upon any property appertaining thereto made in connection with the workings of any mine, to secure payment of said labor or said material so furnished.

§ 2. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 12, 1903.

NAMES.

CHAPTER 183.

(H. B. 236.)

RELATING TO THE CHANGING OF NAMES OF PERSONS AND PLACES.

AN ACT entitled an act amending section 803 of the revised code of civil procedure for 1903, relating to the changing of the names of persons and places.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 803 of the Revised Code of Civil Procedure for 1903, be amended to read as follows:

Section 803. The circuit court shall have the authority to change the name of persons, towns, villages and cities within this state, or to change the name given to any plat or map heretofore made out, certified, acknow-

ledged, and recorded under the laws of this state, or any addition to such plat or map, of any land situated within the corporate limits of any city, town or village; within this state to correspond with the name of such city, town or village, said change of a plat or map, or addition thereto, to be made in like manner as provided for the changing of the name of any town, village or city as provided in sections 804, 805 and 806 of this Code.

Approved March 5, 1903.

NATIONAL GUARD.

CHAPTER 184.

(H. B. 73.)

PROVIDING CAMPING GROUNDS FOR THE SOUTH DAKOTA NATIONAL GUARD.

AN ACT providing permanent camping grounds for the South Dakota National Guard of the State of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1 CAMPING GROUNDS—WHERE LOCATED.] The encampments, maneuvers and drills to be held for the greater efficiency and benefit of the South Dakota National Guard of the State of South Dakota under orders from the Commander-in-Chief, shall be held and take place on the banks of Lake Kampeska, near Watertown in the County of Codington, State of South Dakota, at a suitable place to be hereinafter provided, and said site shall be and the same is hereby set apart and dedicated as a permanent place for the encampments of the South Dakota National Guard of the State of South Dakota.

Provided, That a tract of land, on the east side of Lake Kampeska, not less than sixty acres, having Lake Shore meandered boundaries, be donated and secured in fee simple to the State of South Dakota, by Codington County, within ninety days after the passage and approval of this act, and

Provided, further, that the Governor of the State of South Dakota is hereby empowered and directed to see that fee simple title be made to the State for same.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 20, 1903.

See ch. 295, 1904

CHAPTER 185.

Re ch 267-1913 (S. B. 171.) *Repealed ch 52*PROVIDING FOR A MILITARY CODE. *Laws 1909.*

AN ACT to provide a military code for the State of South Dakota, and for the continued organization and maintenance of the state militia to be known hereafter as the South Dakota National Guard.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. GOVERNOR—COMMANDER-IN-CHIEF.] The governor of the State of South Dakota shall be the commander-in-chief of the militia of the State of South Dakota, which shall hereafter be known and distinguished as the National Guard.

§ 2. PERSONS SUBJECT TO MILITARY DUTY.] All able-bodied male citizens, residents of this state, being eighteen years of age and under the age of forty-five years, excepting persons exempt by law, shall be enrolled in the militia and perform military duty in such manner not incompatible with the constitution and laws of the United States, as hereinafter prescribed.

§ 3. ASSESSORS TO MAKE LIST OF.] The several county, township, village, city and town assessors shall, when making the annual assessment, make a list of all the inhabitants of their respective assessment districts liable to perform military duty, and file such list with the county auditor with the assessment roll, and the county auditor shall make a consolidated report of the same to the adjutant general.

§ 4. GOVERNOR MAY ORDER OUT MILITIA.] The militia thus enrolled shall be subject to perform no active military duty save and except in case of war, invasion, or to prevent invasion, riot or insurrection. In such case the governor is hereby authorized to order out, from time to time, for actual service, as many of the militia thus enrolled as necessity may require, and to provide for their organization in the manner hereinafter prescribed for the organization of the volunteer militia; *provided*, that in all such cases the organized volunteer militia shall first be ordered into service. The militia, while in active service shall be governed by the military law of the state and the rules and articles of war of the United States; and when any troops are in the field for the purposes aforesaid in this section, the senior ranking officer of the troops present shall take command; *provided*, that no person shall be eligible to a command in the militia of this state except citizens of the United States or persons having declared their intention to become such.

§ 5. DEPARTMENTS OF.] There shall be an adjutant general's department, an inspection department, a quartermaster's department, a commissary department, an ordnance department, an engineer's department, a medical department and judge advocate's department; there shall be one adjutant general who shall be appointed by the governor and con-

firmed by the senate, who shall hold the office for the term of two years and until his successor is appointed and qualified, unless sooner removed, or in case of resignation, until his resignation shall be duly accepted by the governor. The adjutant general shall have general supervision and command of the several departments provided for by this section, subject to the orders and instructions of the governor and he shall have such staff assistants in the several departments named herein as he shall recommend and the governor shall deem necessary for the economical administration of said departments, or either of them; such staff assistants shall be commissioned by the governor and have such rank in the general staff of the National Guard not less than captain nor higher than colonel as the governor may provide in the commission of each. Such staff officers shall not be entitled to any stated monthly or annual salary, but where employed on detailed duty by order of the commander-in-chief they shall receive two dollars per day and such necessary traveling expenses as shall be audited by the adjutant general and approved by the governor. The adjutant general shall distribute all orders from the governor. He shall be the organ of all written communications from the National Guard to the governor and shall attend him when required at review of the National Guard, or whenever ordered in the performance of military duty. He shall lay before the governor all recommendations of the heads of military departments and obey and issue such orders as the governor shall give in relation thereto, and in all other military matters, and shall be entitled to use the coat of arms of the state and the seal of his office, with the words added thereto "State of South Dakota, Adjutant General's Office." He shall submit to the governor copies of all charges properly preferred in writing against any officer or soldier of the National Guard, whenever desired by the person preferring the charge, as well as all proceedings of all general courts-martial. He shall annually make a return in triplicate of all the National Guard of the state, a copy of which he shall deliver to the governor on or before the first day of December in each year, one copy to be transmitted to the adjutant general of the United States army, and one copy shall be filed in his office. The term of office of the staff assistants of the adjutant general shall terminate when the term of the office of their chief shall expire, unless sooner removed by order of the governor.

Rep. ch. 267-3 § 6. ADJUTANT GENERAL SHALL KEEP RECORD.] The adjutant general shall keep a register of all the officers and enlisted men of the military forces of the state; he shall make a full report on or before the first day of December in each year to the governor upon the condition of the National Guard, and a detailed statement of all duty performed by them during the preceding year; he shall publish from time to time as may be necessary, at the expense of the state, all laws, rules, regulations and orders relating to the military forces thereof, and distribute one copy to each commissioned officer and organization of the National Guard, and to such officers of the state as may be affected thereby; he shall cause to be prepared and issue all blanks, books, forms and notices required for his office,

or for the use of the National Guard, and all books and forms so furnished shall be the property of the state. The established seal of the office shall be transferred to his successor in office, and all copies of papers or records in his office, duly certified and authenticated under said seal, shall be evidence in all cases in like manner as if the originals were produced.

§ 7. INSPECTION.] The adjutant general shall have charge and supervision of the drill and instruction of the National Guard and shall, once each year, at such time as the governor shall direct, inspect, or cause to be inspected, all companies of the South Dakota National Guard, and make a detailed report of the number and condition of all articles of the state property, proficiency in drill, and the general military knowledge of the officers and men, also the condition of the companies' correspondence, returns, records, orders, and the conditions of the companies generally. The governor may from time to time require him to examine any armory, arms, and state military property, and report to him the condition thereof. If it shall appear satisfactory to him that any arms, ordnance or other state property already distributed to any company has not been safely kept, or properly housed, or has been injured, or loaned or used for other purposes than military occasions, he shall prosecute the bond given by the commanding officer of such company, or he shall take away such property from such company and report such company to the governor, who shall disband the same at his discretion. For this purpose the adjutant general may inspect or cause to be inspected or examined at any time, at his discretion, the arms and property aforesaid.

§ 8. ADJUTANT GENERAL—BONDS OF.] The adjutant general shall give a bond to the state in the sum of ten thousand dollars (\$10,000) to be approved by the governor, for the faithful discharge of his duties. He shall keep a just and true account of all expenses necessarily incurred for the military service of the state, and said accounts shall be paid on the certificate of the adjutant general and order and approval of the governor. He shall purchase and distribute to the National Guard all military stores and supplies authorized by law, shall pay all incidental expenses of the service, including transportation, freight, express, postage and telegrams on public business; shall pay the officers and members of the National Guard; shall furnish clothing, rations and tools, camp and garrison equipage, make contracts for and pay rent of officers [offices], armories, storehouses, camp grounds, and receive and issue all ordnance and quartermaster's and other stores allotted to the state by the government of the United States for the use or subsistence of the National Guard, and perform such other duties as may be ordered by the governor.

§ 9. MEDICAL DEPARTMENT.] The medical department shall consist of one surgeon general with the rank of colonel, one medical surveyor with the rank of lieutenant colonel, and one apothecary and storekeeper with the rank of captain; but no person shall be appointed to this department or commissioned to similar duties in this line unless he shall be a graduate of some legally incorporated school of medicine. The surgeon general shall be chief of the medical department of the National Guard,

and all orders and communications pertaining in any wise to the medical department shall be delivered to him and by him to his subordinates, as he may deem expedient; and all applications for commissions or appointments in any medical department of the South Dakota National Guard, whether for surgeon or assistant surgeon, as hospital steward, or otherwise, without his endorsement and approval, shall be rejected. No immoral or intemperate man shall be appointed or employed in any medical department of the South Dakota National Guard. The surgeon general shall command in his department, subject only to the orders of the commander-in-chief. He may order regimental surgeons to enlist a hospital corps for their respective regiments in such number as the governor may approve; and when so enlisted the adjutant general shall muster them into the hospital service, and such enlisted men shall receive the same pay as a first sergeant of infantry and shall not be subject to any duty except such as may be ordered by the officer in command of the hospital in which he is employed, whether at a field or post hospital; on the requisition of the surgeon general, approved by the governor, the adjutant general shall purchase such medical supplies as may be needed and deliver them as directed by the surgeon general.

Rep. ch. 267-13 § 10. JUDGE ADVOCATE GENERAL.] The governor shall appoint a judge advocate general with the rank of colonel, who shall act as judge advocate at any court-martial and shall have the care and management of all things relating to the administration of justice among the military forces of the state. He shall scrutinize and examine the proceedings of all courts-martial and report thereon to the governor.

Rep. ch. 267-13 § 11. DUTIES OF.] The judge advocate of each brigade, or the officer acting in that capacity, will forward to the judge advocate general, annually, on the 30th day of October a report giving the number and character of cases tried by courts-martial in the brigade during the year. This report will show the number of officers and enlisted men tried by courts-martial, and will contain such recommendations and remarks touching the administration of military justice as he may deem proper to offer.

Rep. ch. 267-13 § 12. ORDER OR APPROVAL OF PROCEEDINGS OF COURTS.] The proceedings of all courts appointed by the commander-in-chief will be sent direct to the adjutant general, by whom they will be laid before the governor for his order or approval.

Rep. ch. 267-13 § 13. COURT-MARTIAL PROCEEDINGS.] Court-martial proceedings shall be governed as far as practicable by the law and rules governing such proceedings in the United States army.

Rep. ch. 267-13 § 14. MILITIA—OF WHAT TO CONSIST.] The organized militia of the State of South Dakota shall consist of not less than one troop nor more than one squadron of cavalry and of not less than one section nor more than one battery of artillery and of two regiments of infantry of three battalions each.

Rep. ch. 267-13 § 15. AIDS-DE-CAMP.] The governor may also appoint not exceeding ten aids-de-camp, who shall have the rank of colonel, and whose term of office shall be two years or during the pleasure of the commander-in-

chief. The commander-in-chief may divide the state into battalion districts. The divisions shall be in such manner as to give all portions of the state, so far as practicable, a just proportion of the whole number of companies permitted by the military code.

§ 16. GUARD MAY BE ORGANIZED INTO BRIGADE.] The National Guard may, at the discretion of the governor, be organized into a brigade. The officers of the brigade shall consist of one brigadier general, who shall command the brigade, the brigade staff, which shall be appointed by the brigadier commander, subject to the approval of and on commission of the governor, shall consist of one assistant adjutant general with the rank of captain mounted, one quartermaster and commissary with the rank of captain mounted, and such aids and non-commissioned staff as shall be detailed by the brigade commander from his brigade. *Rep. ch. 267-13*

§ 17. INFANTRY.] The infantry shall be organized into regiments consisting of twelve companies each, and each regiment shall be divided into three battalions of four companies each. Each regiment may have one band. All companies not needed to complete the regiments of infantry may, at the discretion of the governor, be organized into a separate battalion. *Rep. ch. 267-13*

§ 18. REGIMENTAL STAFF.] The regiments shall each be officered by one colonel, one lieutenant colonel, and one surgeon, with the rank of major, three majors. The regimental staff shall consist of one regimental adjutant, one quartermaster and one commissary, each with the rank of captain mounted, and one chaplain with the rank of captain of infantry. The regimental staff shall be appointed by the regimental commander, subject to the approval of and on the commission of the governor. The regimental non-commissioned staff shall consist of one sergeant major, one quartermaster sergeant, one commissary sergeant, and two color sergeants, who shall be appointed by the regimental commander from the enlisted men of his command. The battalion staff shall consist of one major and one battalion adjutant with the rank of first lieutenant mounted, one assistant surgeon with the rank of captain, and one battalion quartermaster and commissary, with the rank of second lieutenant mounted, who shall be appointed by the battalion commander, subject to the approval of the colonel and on commission of the governor, and one battalion sergeant major, who shall be appointed by the battalion commander from the enlisted men of his command. *Rep. ch. 267-13*

§ 19. INFANTRY—BATTERY—TROOP—OF WHAT TO CONSIST.] Each infantry company shall consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, one quartermaster sergeant, four sergeants, one company cook with the rank of first sergeant, six corporals, two musicians, one artificer, and not more than forty-eight nor less than twenty-five privates. A battery shall consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, one stable sergeant, one quartermaster sergeant, six sergeants, twelve corporals, four artificers, two musicians, one cook with the rank of first sergeant, and not more than fifty-one nor less than seventeen privates. A troop of cavalry shall consist *Rep. ch. 267-13*

of one captain, one first lieutenant, one second lieutenant, one first sergeant, one quartermaster sergeant, six sergeants, six corporals, one cook with the rank of first sergeant, two farriers and blacksmiths, one saddler, one wagoner, two trumpeters and not more than fifty nor less than twenty privates. In time of war or in great public danger the governor may recruit the companies, batteries and troops to a maximum allowed in the United States army.

Leg. ch. 262-1913 § 20. PETITION FOR ORGANIZATION OF MILITIA.] Whenever fifty-five persons, resident and liable to military duty, in any county shall subscribe and present to the governor an application for the organization of a military company, he may, at his discretion, detail an officer to muster such company and perfect the organization thereof; *provided*, the whole number of companies shall not exceed the number fixed in section fourteen (14) of this act. Such officer shall forthwith fix a time and place of meeting for the purpose of such muster and organization and give not less than ten nor more than thirty days' notice thereof by publication in some newspaper published in the county or by posting notices in three or more public places therein. Such officer shall preside at such meeting, which may be adjourned from time to time, and shall provide a muster roll, which each person so volunteering, who shall be accepted as competent by such officer, shall sign; and such signature and the muster roll shall be conclusive evidence that such volunteer is subject to all the obligations imposed by law upon the members of the National Guard. When at least fifty persons shall have been so mustered in they shall proceed at such meeting to elect by ballot, under the superintendence of such officer, the several officers required by law, and a majority shall be necessary to a choice. After such election the name and rank of such officers shall be entered on the muster roll and the officer shall certify to and forward the same, together with a copy of the proceedings and notice of such meeting, to the adjutant general. If it shall appear that such organization shall have been perfected and the officers elected according to law, and the governor shall approve such organization and officers, such company shall be enrolled as a part of the National Guard, and the officers thereof commissioned. If the governor disapprove such organization, he may, at his discretion, direct another meeting to perfect the same. If he disapprove any officer so elected, he may direct another meeting or meetings to elect another instead, or he may fill the position in such manner as he may deem best.

Rep. ch. 267-13 § 21. REGIMENTAL BAND.] Each regimental band shall consist of one chief musician, one principal musician and one drum major, four sergeants, eight corporals, one company cook with the rank of first sergeant, and twelve privates. All bands shall be enlisted by the regimental commander or such officer as he may detail, and such members, except as hereinbefore provided, shall receive the same pay and allowance, except for armory rent, as other enlisted men, and be held to service as other enlisted men.

Rep. ch. 267-13 § 22. COMMISSIONS.] The governor shall issue commissions to all

officers, elected or appointed, whose election or appointment shall be approved by him. Every commission shall be countersigned by the adjutant general and continue for five years. Each officer so commissioned shall take and file with the adjutant general the oath of office prescribed by the constitution and endorse a copy thereof on his commission, which shall take effect only when so endorsed. All commissioned officers shall take rank according to the date assigned them by their commissions, and when two of the same grade rank from the same date, their rank shall be determined by length of service in the National Guard, and if of equal service, then by lot.

§ 23. EXAMINATION.] The governor may order any subordinate officer or persons nominated or recommended for promotion or appointment to be examined by any competent officer or board of officers, designated in orders for that purpose, as to his qualification for the office to which he may be recommended or appointed, and may take such action on the report as he may deem to be for the best interest of the service. The governor may also require the physical examination provided for admission to the United States army. *Rep. ch. 267-13*

§ 24. COMMISSIONED OFFICERS TO GIVE BOND.] Commissioned officers of a company shall execute to the state a bond, with such sureties and in such form as the governor shall approve, and in a sum not less than one thousand dollars, conditioned for the faithful preservation and care of all such arms, accoutrements, moneys, or stores, as shall be received by the company to indemnify the state against loss by misuse or misapplication of any part thereof, and to account for all the same according to law, and to deliver the same to any officer lawfully entitled thereto, on demand, and to pay all sums lawfully appraised for losses or damages. Thereupon the quartermaster general shall issue such arms, accoutrements and stores, as the governor shall by order direct, which shall be as nearly as possible like those in use in the army of the United States. The commanding officer for the time being is the legal custodian of the money, property and effects of any company, band, regiment or brigade of the National Guard, whether said property is owned by said company, band, regiment or brigade, or its members collectively, or has been issued to it or any of its officers, for its use by state or United States authority, and may sue for and recover possession of the same, whenever wrongfully withheld from his custody, or the custody of the company, band, regiment or brigade. *Rep. ch. 262-13*

§ 25. MILITARY SUPPLIES.] All military supplies issued to any officer shall be at all times subject to inspection by the adjutant general or other officer designated by the governor for such purpose, who shall report the true condition thereof. The governor may at any time require repairs to be made or defects or losses supplied; and he may, at any time, convene a board of survey to condemn quartermaster's and ordnance stores and supplies or to appraise the loss sustained by the state from injury, want of repair, defects or losses in any such quartermaster's or ordnance stores issued to any officer; which board, after reasonable notice to him *Rep. ch. 267-13*

and hearing his explanations or objections, shall appraise the same and make report, and the amount as appraised, when approved by the governor, shall be conclusively deemed the amount of such officer's liability on his bond therefor up to the date of such report; and he shall be compelled to pay the same into the state treasury, said payments to be placed by the state treasurer in a special fund to be known as the lost military property fund, and said fund shall at all times be available for purchase by the adjutant general, subject to the approval of the governor, of any military property needed to replace that lost or destroyed. The governor shall cause suit to be brought whenever necessary to make good any injury, want of repair or loss of any quartermaster's or ordnance stores or supplies or other state property. But if any such stores or property belonging to the state shall be lost, destroyed or damaged without the fault or neglect of the officer responsible for the same, such officer and his sureties may, by order of the governor on the report of the board of survey, or other satisfactory proof, be relieved of all liability therefor.

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7-13 § 26. QUARTERMASTER'S AND ORDNANCE STORES.] Whenever any officer responsible for state property shall resign, be promoted, dismissed or discharged, he shall deliver the quartermaster's and ordnance stores in his possession or for which he is responsible, only to the adjutant general, or to some person duly appointed to receive the same, who shall give such bond for its safe-keeping while in his possession as the governor may direct, and take duplicate receipt therefor, one of which he shall file with the quartermaster general. A discharge shall not be issued until such officer has received certificates of non-indebtedness from the adjutant general. His successors in office shall, before receiving such property, execute and file a bond as hereinbefore provided. In case of the death of any such officer, the next in command shall immediately take charge of such quartermaster's and ordnance stores and supplies and deliver the same to the adjutant general or some person appointed to receive the same; or, if commissioned in place of said deceased, he shall execute and file a like bond and give duplicate receipts therefor, one of which he shall file as aforesaid.

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7-19 § 27. GOVERNOR MAY ORDER OUT NATIONAL GUARD.] In case of war, insurrection, rebellion, riot, invasion, resistance to the execution of the laws of this state, or of the United States, or in the event of public disaster resulting from flood, conflagration or tornado, or upon application of any marshal of the United States, the mayor of any city, or any sheriff in this state, the governor may order into active service all or any portion of the National Guard. If the governor be absent, or cannot be immediately communicated with, any such civil officer may, if he deems the occasion so urgent, make such application, which shall be in writing, to the commanding officer of any company, battalion or regiment, who may, upon approval of the adjutant general, if the danger be great and imminent, order out his command to the order of such civil officer. Such order shall be delivered to the commanding officer, and by him immediately communicated to each and every subordinate officer, and every company command-

der receiving the same shall immediately communicate the substance thereof to each member of the company, or if any such member cannot be found a notice in writing containing the substance of such order shall be left at the last and usual place of residence of such member with some person of suitable age and discretion, to whom its contents shall be explained.

§ 28. VIOLATION—PENALTY.] If any company commander or commissioned officer receiving such order shall fail to give such notice or fail to appear at the time and place ordered, prepared for duty, he shall be cashiered and be further punished by fine and imprisonment as a court martial may adjudge; or if any enlisted man, after being duly notified, shall refuse or neglect to appear at the time and place of rendezvous, properly prepared for duty, or fail to obey any order issued in such case, he shall be deemed a deserter and punished by a fine of not less than fifty dollars nor more than three hundred dollars, or be imprisoned in the county jail not exceeding six months, or both; and any person who advises or endeavors to persuade any officer or soldier to refuse or neglect to appear at such place or obey such order shall be punished by imprisonment in the county jail not exceeding six months, or a fine not exceeding one thousand dollars, or both. But physical incapacity to perform military service, dangerous sickness in the family of any such officer or enlisted man, or absence at the time such notice was served, when such absence was not intended to avoid such notice or service, and when he shall join for duty on his return, if his command is still in service, shall excuse such fault.

§ 29. GROUND TO BE MARKED.] The commanding officer of any parade or drill, and the officer in charge of any rendezvous or camp, may cause the ground selected for that purpose to be marked and designated in such manner as not unnecessarily to obstruct travel on any public highway; and if any person, during the occupation of such ground for military purposes, shall encroach upon such bounds, or enter upon such ground without the permission of such officer, he may be arrested and kept under guard by the order of such officer until the setting of the sun of the same day, or for such reasonable time as may be necessary to procure his arrest by the civil authorities. Any such offender may be arrested and punished as for a breach of the peace. If any person shall intercept, molest, insult or abuse any officer or enlisted man while in the performance of his military duty, he may be immediately arrested and kept confined at the discretion of the commanding officer of the force engaged in such duty until the setting of the sun of the same day on which the offense shall have been committed, or for such reasonable time as may be necessary to procure his arrest by the civil authorities. Any such offender may be arrested and punished as for a breach of the peace.

§ 30. SOUTH DAKOTA NATIONAL GUARD, RETIRED LIST.] All commissioned officers who may have heretofore served or shall hereafter serve five years in the National Guard may, upon honorable retirement from the service, be carried on a roll to be established and maintained in the office of the adjutant general, which roll shall be designated the "South Dakota National Guard Retired List," and they shall be entitled to wear, on oc-

casions of ceremony, the uniform of the highest rank which they have held. The officers so carried on such roll may be eligible for detail or appointment by the governor, but when so detailed or appointed shall be considered as of the rank to which they have been detailed or appointed, which rank they shall hold during the period of such detail or appointment, and in case of a second retirement from active service, if the rank held by them at the time be higher than the one held by them on their first retirement, they shall be entered on said list as of the highest rank held by them. No officer whose name shall appear on said retired list shall be entitled to receive any pay or emolument whatever from the state during the time he so remains on said list, and in case he be reappointed, recommissioned or detailed therefrom, he shall be entitled to the pay and allowance provided by law for officers of the rank to which he may be detailed or appointed.

Ref ch 267-13 § 31. ADJUTANT GENERAL.—QUALIFICATION OF.] The adjutant general shall be an officer of the National Guard of this state who has held a commission therein at least three (3) years prior to his appointment, or who shall have served in the war of the rebellion, or the Spanish-American or Philippine war, and shall have been honorably discharged therefrom; he shall hold his office at the capitol of this state and he shall devote his entire time exclusively to the duties of his office, and shall receive a salary of fifteen hundred dollars per annum. At the expiration of his term of office the governor shall order his name placed on the retired list of commissioned officers of the National Guard, and he shall thereafter be entitled to all the rights, privileges and honors of a retired commissioned officer of the National Guard of the State of South Dakota.

Ref ch 267-13 § 32. COMPENSATION.] There shall be allowed and paid as hereinafter provided to such officers and enlisted men as shall be ordered into active service, or to attend annual encampments, in pursuance of the provisions of this act the following sum each year for every day actually on duty, or going to or returning from the same, and the certificate of the officer ordering the duty shall be evidence of such service. To musicians, privates and teamsters, one dollar; to corporals, farriers and saddlers, one dollar and twenty-five cents; to sergeants and drum majors, one dollar and fifty cents; to first sergeants, principal musicians, and chief trumpeters, one dollar and seventy-five cents; to sergeant major, quartermaster sergeant, hospital stewards and chief musicians, two dollars; to second lieutenants, two dollars and twenty-five cents; to first lieutenants, two dollars and fifty cents; to captains and company commanders, three dollars; to lieutenant colonels, majors and battalion commanders, three dollars and twenty-five cents; to colonels, three dollars and fifty cents; to brigadier generals, four dollars; to staff officers the same as officers of like grade in the line or field. The headquarters of each brigade, regiment and battalion shall be allowed annually the sum of fifteen dollars (\$15) for postage and stationery. In like manner each company troop and battery shall be allowed annually the sum of five (5) dollars for postage and stationery.

Ref ch 267-1913 § 33. MUST PROVIDE FOR OWN USE, HORSE AND EQUIPMENT.] All

members of the National Guard that are required to be mounted shall provide for their own use a horse and horse equipments but shall be allowed forage for the same when on duty, and be paid one dollar for each day such horse may be on duty in the service of the state, or as may be provided in this act. And the sum authorized by this section shall be paid on approval of the adjutant general and order of the governor.

§ 34. OFFICERS ATTENDING COURT—COMPENSATION OF.] All of *Rep ch 267-13* ficers detailed to serve on any board or commission ordered by the governor, or any court of inquiry, court-martial or delinquency court ordered by the proper authority in pursuance of any provisions of this act shall be paid their subsistence and actual traveling expenses, and for each and every day actually employed in said board or court or engaged in the business thereof, or in traveling to and from the place of meeting of said board or court, the sum of two (2) dollars per day.

§ 35. All officers and enlisted men of the National Guard while on *Rep ch 267-191* duty in camp, or assembled pursuant to the order of the governor, or the sheriff of any county, or the mayor of any city, shall receive the compensation provided in section 32, and also their subsistence in kind or commutation thereof, and their transportation or mileage the rates of commutation or mileage to be fixed by order of the governor.

§ 36. UNIFORM.] Every non-commissioned officer, musician and *Rep ch 267-13* private of a company, troop or battery, duly organized under the military laws of the state of South Dakota, shall be furnished with a uniform complete and the necessary insignia of rank, and the said uniform shall be furnished by the adjutant general upon requisition of the commanding officer of the company, troop or battery to which the non-commissioned officer, musician or private belongs. Said requisition shall be made in duplicate, and shall certify the name, age, rank, the date of enlistment, term of service and measurement of the member or members for whom the uniform is required; also the number of uniforms already in the possession of the company, troop or battery, and the number of active members on the roll. The non-commissioned staff of each regiment, brigade or battalion shall in like manner be provided with uniforms upon requisition of the commanding officer of the regiment or battalion to which they are attached. Every uniform so furnished shall be deposited in the company armory and be in charge of the commanding officer of the company and is never to be worn except in the discharge of military duty. Every person who shall intentionally, or through neglect, injure or destroy such uniforms or other property and refuse or neglect to make good such injury or loss, or shall sell or dispose of the same, shall upon conviction thereof be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding six months, or both such fine and imprisonment. Any person who shall wear or use, except in the discharge of military duty, or by special permission of his commanding officer, any uniform or other military property, shall be punished by a fine not exceeding twenty dollars for each and every such offense. Uni-

forms shall not be replaced until condemned by the inspecting officer, and when condemned shall be disposed of under instructions from the secretary of war of the United States, or the inspector general under approval of the governor, as the case may be. All commissioned officers of the National Guard shall provide themselves with such uniforms and arms, complete as are required by the United States army regulations for officers of the United States army, and shall be allowed ten dollars per year for the purchase of such uniforms and arms, to be paid from the state military fund.

Revised 167-113 § 37. FREE TRANSPORTATION.] The officers and members of the National Guard shall be allowed free transportation for themselves and the property of the state, going to and returning from any service authorized or directed by law, their subsistence in kind or commutation therefor, and their quarters, tents and camp equipments; and the adjutant general and the officers of his department will at all times be prepared to furnish these things as may be required by orders of the governor.

Revised 167-113 § 38. PROPERTY EXEMPT FROM TAXATION.] All property belonging to any organization of the National Guard shall be exempt from taxation or assessment for any purpose whatever; and in case any such organization shall erect or purchase any armory or assembly room, the annual rent of the same, authorized in section 39 may be paid into the treasury of such organization.

Revised 167-113 § 39. SUITABLE ROOMS MUST BE PROVIDED.] The commanding officer of each company, troop or battery, and the treasurer of each regimental band, shall provide suitable room or rooms at a convenient place in town where each organization is located or stationed, with the necessary furniture, fuel, light, drawers, lockers, closets and gun racks, for an armory, assembly and drill room for such organization, and said room or rooms shall be under the exclusive control of the commanding officer. There shall be paid out of the military appropriation such sum as shall be deemed necessary on the contract made by the adjutant general and approved by the governor for the rent and furnishing of such armory or band quarters of each organization of the National Guard, to be paid by the State of South Dakota.

Revised 167-113 § 40. COMPANY MAY BE DISBANDED.] Whenever any company shall fall below the minimum in membership, become lax in discipline, negligent in drill and other duties, or insubordinate, or its members lose interest in their organization, or when upon inspection it shall appear to be not properly organized or conducted, or when musters or returns shall not be made, as required by law, or the good of the service shall recommend it, the governor may muster out the same by order, and may direct all arms, accoutrements and stores to be delivered up by whomsoever held; and if any person who was a member of such disbanded company shall appear with or retain arms or property of the state in his possession until again mustered or enlisted in service, he shall forfeit not less than twenty-five dollars nor more than one hundred dollars.

Revised 167-113 § 41. INSPECTION MUST BE MADE—WHEN.] At least once in each year, and upon not less than three days' notification to the commanding

officer, an inspection shall be made of each company and band and regimental and battalion non-commissioned staff of the National Guard in the same manner and form prescribed by United States army regulations. The inspecting officer shall be furnished with the last muster roll and ordnance and quartermaster's returns of such company, and shall report to the governor in writing in a form provided for that purpose, and file a duplicate of the report with the adjutant general.

§ 42. STATE TRANSPORTATION TO OFFICERS.] The adjutant general, subject to the approval of the governor, shall have authority to issue state transportation to the officers of the National Guard, for the use of schools of instruction, boards of survey and examination, the annual convention of the officers of the National Guard, for tours of inspection and instruction, and for use of the members of the National Guard when traveling solely on official business. *Rec. ch. 267-13*

§ 43. MUSTER ROLLS.] On the first day of November of each year each and every company and band of the National Guard shall be mustered by the commanding officer thereof, and duplicate muster rolls shall be prepared and furnished by the adjutant general with full instructions for filling out the same. Such muster rolls shall set forth the officers in order of rank and the enlisted men in alphabetical order, distinguishing recruits since last muster, and truly state the residence, age, and date of enlistment of each, and such other facts as shall be required by orders, on the forms prescribed. On said muster days every such commanding officer shall inspect all arms, accoutrements and stores and other military property issued by the state to him or his command, and make and certify an account and return thereof, in duplicate copies, one of which shall be filed with the adjutant general on or before the twentieth day of the same month. In such return he shall state the true number, amount and condition of such arms, accoutrements, stores and property, charging himself with the amount on hand at the time of his last return and all subsequently received and furnishing vouchers for all returned, disposed of or lawfully expended, in such manner as shall be prescribed. *Rec. ch. 267-13*

§ 44. PAYMASTER.] The governor may appoint a paymaster, who under orders from the governor, shall have authority to draw from the state treasury the money necessary for paying troops in camp or on active service, and shall furnish such security for the same as the state treasurer may direct. The amount due on account of the field staff or other officers, non-commissioned staff and band, company or enlisted men, not herein enumerated, if any, shall be paid to the person to whom the same shall be due, on the properly signed and certified pay rolls. *Rec. ch. 267-1*

§ 45. RESIGNATIONS.] A commissioned officer may resign his commission to his immediate commanding officer, in writing, who shall properly forward the same to the Adjutant general. The governor shall, by order, accept or reject the same, and, if accepted, fix the date of its taking effect. No resignation shall take effect except as so ordered. Vacancies caused by death, resignation, promotion, discharge or removal of any company officer shall be filled by the promotion of the officer of such company *Rec. ch. 267-19*

next in rank, subject to the inspection and to the approval of the governor, or they may be filled by appointment by the governor. In all cases of resignation or removal of officers of the line, the position made vacant shall be filled by the promotion of the officer next in rank, unless otherwise ordered by the governor. All officers that shall be commissioned by the governor except the adjutant general and aid-de-camp to the governor and medical officers, shall be taken from the members of the National Guard. All commissions to officers of the National Guard shall be issued by the governor and countersigned by the adjutant general, and all commissions so issued shall continue in force for five years from the date thereof, unless sooner revoked by order of the governor for cause.

Apch 267-913 § 46. TERM OF SERVICE.] Every man who shall have been mustered or enlisted in the National Guard shall be held to service therein for three years, unless sooner discharged as herein provided. The governor may require all men who enlist in the National Guard to first pass the physical examination that is required for admission to the United States volunteer army.

Rec ch 67-13 § 47. HONORABLY DISCHARGED SOLDIERS EXEMPT FROM MILITARY AND JURY DUTY.] Any honorably discharged soldier of the National Guard may after serving the full term of service, be re-enlisted for the term of two years. Every member of the National Guard shall be exempt from jury duty and from the payment of poll tax of every description, and any member who shall be honorably discharged after five years' service, or by reason of injury received in the line of duty, shall be forever so exempt, and also exempt from military duty in time of peace. A proper discharge and membership certificate shall be conclusive evidence of the right of such exemption.

Rep ch 67-13 § 48. ENLISTED MEN—HOW DISCHARGED.] Enlisted men shall be discharged only upon certificates signed by the company commander and endorsed by the adjutant general, with the governor's approval. Such discharge shall not be granted until after three years' service or from absolute disability occurring after mustering in, unless the member discharged permanently removes his residence out of the county, or the governor shall order the same for good cause. Any member who absents himself from all meetings for instruction during a period of thirty days, unless properly excused by his commanding officer, shall, in addition to all other penalties, be debarred from the exemption from jury duty, be considered a deserter, and be dishonorably discharged, and published in orders as such. Any enlisted man may be so discharged for absence from his command when called out for the suppression of riot or for any other active duty, for drunkenness, immoral conduct or insubordination, continued non-attendance at drills, or refusal to pay any fine properly imposed. Any enlisted man dishonorably discharged may, at the discretion of the governor, be reinstated, provided his application for reinstatement is approved by the officers who made the application for his discharge and provided that upon reinstatement he re-enter the service and serves out the unexpired period of his enlistment.

§ 49. COMPANY—MEANING OF.] Whenever the word "company" is used in a military sense in this act it shall be understood and construed to mean a company of infantry, troop of cavalry, or battery of artillery. *Revised 267-1*

§ 50. COMPANY SHALL ASSEMBLE FOR INSTRUCTION—WHEN.] Each company of the National Guard shall assemble for instruction at least twice in each month, unless in case of infantry companies excused for good and sufficient reasons by the regimental commander, and in case of the troop or battery excused by special order of the governor. *Revised 267-1*

§ 51. Each company or band may adopt such constitution, rules or by-laws, not inconsistent with the constitution and military regulations of the United States and of this state, as a majority of all the members thereof may approve; and may therein provide fines and penalties for any violation thereof, which, for absence and refusal to appear for instruction or parade, shall not exceed five dollars, nor be less than one dollar; and all such fines and penalties shall be collectible in an action in the name of the commanding officer as plaintiff before any competent court or magistrate. Such constitution, rules or by-laws shall become operative only when approved by the governor. *Revised 267-1*

§ 52. ANNUAL ENCAMPMENT.] There shall be an annual encampment, inspection and muster of all the organizations of the National Guard for at least five consecutive days, at such time and place as the governor shall order and direct. No person shall be mustered at such time or allowed to appear as a part of the National Guard unless he shall be duly enlisted or commissioned in the same, nor any member who does not appear uniformed, armed and equipped as required by the provisions of this act. Any officer who knowingly or willfully shall place or cause to be placed on such muster roll the name of any person not regularly or lawfully commissioned or enlisted, or the name of any man who is dead, or has been discharged, transferred or dropped, or has lost his membership for any cause whatever, or one who has been convicted for a felony or has refused to do military duty for the six months immediately preceding the annual inspection shall be deemed guilty of a misdemeanor, punishable by a fine of not less than fifty nor more than one hundred dollars, or he may be cashiered. In addition to the annual muster and inspection, each troop, battery or company shall assemble for duty and instruction at company, battalion or regimental armories or rendezvous for target practice not less than twenty-four times in each year. Other exercises shall be had as the members may prescribe in their by-laws by resolution. Any officer or man absent from any compulsory drill or parade shall be fined or punished as fixed by the regulations. *Revised 267-1*

§ 53. SALE OF SPIRITUOUS LIQUORS—GAMBLING—PROHIBITED.] The commanding officer at any encampment, parade, drill, muster or other rendezvous may cause those under his command to perform any military duty he may require, and may place in arrest during the time of such meeting, and confine under guard, if necessary, any officer or enlisted man who shall disobey the orders of his superior officer or in any way interrupt the exercises, and may remove any other person or persons who shall trespass *Revised 267-1*

on the parade ground or armory, or in any way interrupt the orderly discharge of duty of those under arms. He shall prohibit and prevent the sale or use of all spirituous liquors, wine, ale or beer within the limits of the encampment, parade grounds, or armory, and such limits shall be prescribed in orders by the officers commanding the parade or encampment, and also all hucksters, auction sales, gambling or games of chance may at his discretion be abated as nuisances.

Revised ch. 167-'13 § 54. TARGET PRACTICE.] To accustom the troops to the use of their arms target practice must be encouraged. The governor shall order such practice as the allowance of ammunition will permit and he shall offer suitable medals, badges or trophies, to be inscribed and given in the name of the state, to the persons and organizations who upon competition shall show their superior attainments as marksmen. The provisions of this section shall be carried out under orders and regulations issued by the governor; *provided*, that not more than one hundred dollars shall be expended in any one year for the purchase of medals, badges or trophies.

Revised ch. 167-'13 § 55. CUSTODIAN OF FLAGS.] The adjutant general shall be custodian of all flags and colors of South Dakota troops engaged in any war, and shall provide for their care and custody as the governor may direct; he shall also have charge of all regimental flags and colors of the militia of the state when not in use.

Revised ch. 167-'13 § 56. GOVERNOR MAY PUBLISH RULES AND REGULATIONS.] The governor may, from time to time, make and publish such rules, regulations and orders for the government of the National Guard, not inconsistent with existing laws, as he may deem expedient, and cause the same, together with any laws relating thereto, to be printed and distributed in book form, or otherwise, in such numbers as he may deem necessary, for the information and use of the National Guard.

Revised ch. 167-'13 § 57. BUREAU OF PENSIONS.] The adjutant general shall conduct a bureau of pensions to assist all persons residing in the State of South Dakota having claims against the United States, for pensions, or back pay or bounty, where such claims have arisen out of, or by reason of service in the wars of the country. To this end he shall co-operate with their agents or attorneys, advise as to the legality of claims, furnish to claimants only all necessary certificates and certified abstracts from copies of records and documents in his office, and in all practicable ways seek to secure speedy and just action upon all claims now pending or which may hereafter be filed. He shall also in cases where he may deem it expedient act as the agent or attorney of record for prosecuting claims for persons requesting him to do so; *provided*, that for such services rendered neither he nor any of his clerks or assistants shall make any charge, or demand or receive from the said claimants, or either or any of them, directly or indirectly any pay or compensation whatever; and *provided further*, that the adjutant general is hereby authorized to employ a special clerk to assist in conducting the correspondence and keep the books and performing any other necessary work to be done in the department of pensions, at a salary of not exceeding seven hundred dollars a year, which shall be paid from

an appropriation which the legislature shall make for that purpose; and *provided further*, that if such appropriation is not made the adjutant general shall not be required to conduct said bureau of pensions.

§ 58. COMPANY, TROOP OR BATTERY SHALL APPOINT NON-COMMISSIONED OFFICERS.] Company, troop, or battery commanders shall appoint non-commissioned officers of their commands, and shall forward their appointments to regimental or battalion headquarters, where a warrant shall issue for the same, signed by the commanding officer. Rec'd 267-1

§ 59. OATHS OF ALLEGIANCE.] Every person recruited for the National Guard shall sign enlistment papers in triplicate, which shall contain an oath of allegiance to the United States and to the State of South Dakota and of obedience to the militia laws of the United States and of the State of South Dakota, and a resume of the duties to be performed. Said oath of allegiance shall be taken before the troop, battery, company or battalion commanders, and when duly executed one copy shall be forwarded to the adjutant general's office, one to the headquarters of the regiment or battalion, and the other copy to be filed with the official records of the organization to which the recruit is assigned. Rec'd 267-1

§ 60. HONORABLE DISCHARGE—WHEN TO ISSUE.] No honorable discharge shall be given any member of the National Guard until he shall produce a certificate from his immediate commanding officer that he has returned or satisfactorily accounted for all the money or other property of the state or any organization of the National Guard issued to him or coming into his possession; *provided*, no certificate of service shall include the time any member was absent from duty without leave, which time of absence shall in no case be allowed in computing length of service. Rec'd 267-1

§ 61. OATHS—BY WHOM ADMINISTERED.] The adjutant general and all officers of the general staff and commanding officers of regiments and battalions and companies are each and every one hereby authorized to administer any oath required to be made in the administration of the militia laws of this state. Rec'd 267-1

§ 62. UNITED STATES ARTICLES OF WAR TO GOVERN.] The articles of war governing the army of the United States, so far as they are practicable, and not incompatible herewith, are hereby adopted for the government of the National Guard and militia of this state, with the following exceptions: The governor is alone authorized to order general courts-martial and courts of inquiry; battalion or other superior commanders may order garrison courts-martial, which are authorized to try all offenders. The maximum number of members of these courts is fixed as follows: General courts, seven members; courts of inquiry and garrison courts-martial, five members. Minimum number: General courts, five members; and courts of inquiry and garrison court's three members each; as the exigencies of the service permit. Rec'd 267-1

§ 63. FINES.] Fines of offenders under the preceding section may be paid to the court or to the treasurer of the organization to which the offender or offenders belong. All fines imposed and collected shall be deposited to the credit of the clothing or equipment fund of the organization Rec'd 267-1

to which the member paying the fine belongs, or if a staff officer to the general fund of the state. A receipt for money so deposited will be forwarded for file with the proceedings of the court in such case.

Rev. ch. 267-13 § 64. POWER OF COURT TO COMPEL ATTENDANCE OF WITNESSES.] Any court authorized by this act shall have the same power as other courts of the state to compel the attendance of witnesses, through the senior officer or president of the court, and to administer oaths to such witnesses, who shall issue subpoenas for all witnesses that may be deemed necessary by the court. He may issue attachment for the witness, and all sheriffs, jailers, constables, are hereby required to execute any precept issued by such president or court for that purpose. The person attached for non-attendance shall pay the usual fees for such service, besides the penalty provided, unless he satisfies the court that his failure to attend was excusable. Every witness not appearing in obedience to such subpoena when duly served with a copy of the same, and not having a sufficient excuse, shall forfeit to the people of this state a sum not less than one nor more than ten dollars, to be paid and credited as fines for similar offenses before other courts of the state.

Rev. ch. 267-13 § 65. PUNISHMENT FOR CONTEMPT.] Any person or persons behaving in a disrespectful manner, or using any insulting language before any military court, or to a member thereof in open court, intending to disturb or impair the authority of such court, may be punished for contempt of court by confinement in the jail of the county in which the court sits, by warrant under the hand of the president of such court. The warrant shall be directed to the sheriff or any or either of the constables or marshals of any such county, or the officer attending the court, and set forth the circumstances of the offense adjudged to have been committed, and shall command the officers to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail and in close confinement for a limited time, not to exceed three days, and until the officer's fees for committing and the jailer's fees be paid. Such sheriff shall obey the warrant and keep the person as directed, unless he is discharged by a judge of a court of record in the same manner and under the same rules as in cases of imprisonment under process of contempt from a court of common law jurisdiction.

Rev. ch. 267-13 § 66. MARSHAL.] A military court sitting in any county shall be attended by the sheriff of the same, or some suitable person designated by him, who shall be the marshal of the court and perform the usual duties of such marshals, and execute any process lawfully issued by such court and perform all acts and duties by this act imposed on and authorized to be performed by any sheriff, marshal or constable; and the officer ordering the court shall furnish a copy of his order to the sheriff of the county where the court is directed to meet, which order shall be notice to the sheriff to appear or designate some one as marshal of the court.

Rev. ch. 267-13 § 67. MARSHAL—COMPENSATION OF.] To every marshal appointed to a military court shall be paid the sum of two dollars for every day's attendance before the court, and actual necessary traveling expenses while

engaged in serving subpoenas or executing any process of the court, the same to be paid on the certificate of the president of the court as to number of days employed and other duties performed, and in like manner with other accounts of the state, but no marshal shall receive any fees from the person served, and refusal or neglect on the part of the sheriff or marshal to execute any warrant herein required, or make return and pay over all the money collected as fines, shall subject the officer so offending to double the amount of such fines and penalties. The conversion to his own use of moneys so collected by any sheriff or marshal shall be deemed embezzlement, and punished as such in any court of the state having jurisdiction in such cases.

§ 68. FINES—HOW COLLECTED.] For the purpose of collecting fines imposed by courts-martial, the president of the court shall within twenty days after the proceedings of the court have been approved make a list of all the persons fined, describing them distinctly, showing the sums imposed on each person and not paid. He shall then draw his official warrant directed to the sheriff of the county or the marshal of the court, commanding him to levy such fine, together with the costs, on the goods and chattels of the delinquent, sale thereof to be made as provided by law, and no property shall be exempt from payment of such fines and penalties except absolute exemptions. In default of sufficient goods and chattels to satisfy the same, then such sheriff, marshal or constable shall take the body of such delinquent and confine him in the county jail, whose jailer shall keep such delinquent closely confined without bail or mainprize for two days for any fine or penalty not exceeding five dollars, and one additional day for every dollar above that sum, unless the fine with the costs and jailer's fees be sooner paid; but no such imprisonment shall extend beyond ten days, and the officer ordering the court may remit the fines and penalties imposed.

§ 69. REFUSAL TO PAY FINE—PUNISHMENT.] Any member of the National Guard fined by a general or other court-martial, who shall neglect or refuse to pay such fine within twenty days after the same was imposed, may be punished in orders by the officer ordering the court and dishonorably dismissed from the service without allowance of time he has served, and disqualified from serving in the National Guard for three years. For offenses against the by-laws, rules and regulations of any organization any dues may be collected by court-martial as provided in this act.

§ 70. NO ACTION SHALL BE MAINTAINED—WHEN.] No action shall be maintained against any member of a military court on account of the imposition of a fine or penalty, or for the execution of a sentence on any person, if such person shall have been returned as delinquent and duly summoned before such court, or shall have appeared before such court to answer the charge made against him.

§ 71. DEFENDANT MAY RECOVER COSTS—WHEN.] When a suit or proceedings shall be commenced in any court by any person against any officer of the National Guard of this state for any act done by such officer in his official capacity in the discharge of any duty under this act, or against

any person acting under authority or order of such officer, or by virtue of any warrant issued by him pursuant to law, the judge advocate general or some other officer designated by the governor, shall appear for him, and the plaintiff in such suit may be required to file security for the payment of the costs that may be incurred by the defendant in such suit or proceedings. In case the plaintiff shall be non-suited or have verdict or judgment rendered against him, the defendant shall recover treble costs and such attorney's fees as the court shall allow, which said fees shall in the first instance be paid by the state and refunded by the defendant upon collection of the judgment.

Revised 267-13 § 72. FREEDOM FROM ARREST.] No person belonging to the military forces shall be arrested on any civil process while going to, remaining at, or returning from, any place at which he may be required to attend for military duty. Any portion of the National Guard performing any duty, according to law, shall have the right of way in any street or highway through which they may pass; *provided*, the carriage of the United States mails, the legitimate functions of the police, and the progress and operations of fire engines and fire departments shall not be interfered with thereby.

Revised 267-13 § 73. REPORT MUST BE MADE TO CHIEF OF DEPARTMENT.] Every officer who received arms, accoutrements, clothing, camp equipage, rations or stores of any kind for the use of his command, or for issue to troops shall render the chief of his department, furnishing the same, a report or return of such supplies, according to the forms which may be prescribed, and such reports shall be furnished when called for, but not oftener than once in two months.

Revised 267-13 § 74. PROPERTY CANNOT BE SOLD.] The clothing, arms, military outfits, accoutrements and stores furnished by the State of South Dakota or the United States to the National Guard shall not be sold, bartered, exchanged, pledged, loaned or given away, and the possession of any such property by any person not a member of the guard shall be *prima facie* evidence of such sale, barter, exchange, pledge, loan or theft. Such property may be seized and taken from any person not authorized to keep the same, by any soldier, officer, civil or military, of the state, and shall thereupon be delivered unto any officer of the state authorized to receive the same.

Revised 267-13 § 75. PROPERTY DAMAGED OR DESTROYED—RECOVERY FOR.] All the property of the state that may be lost, stolen, damaged or destroyed in the military service shall be acted upon by a disinterested inspector or officer, detailed as such, who shall make full investigation and report of all the facts and circumstances of the case, and if any person is found or deemed responsible for the loss or damage of the property, beyond reasonable wear and tear of the service, the inspector shall assess and fix a reasonable value on the property lost, damaged or destroyed, and such person shall pay the sum so assessed, into the treasury of the state. And in the event of such person's failure or neglect to reimburse the state, suit may be entered in the name of the state in any court of competent jurisdiction for the recovery.

ery of the same, under such regulations as the governor shall prescribe.

§ 76. WOUNDED SOLDIERS TO BE TAKEN CARE OF.] If any officer or soldier in the service of the state shall be wounded or disabled while in the discharge of his duty, he shall be taken care of and shall be provided for at the expense of the state during the period of such disability.

§ 77. BOARD TO HEAR AND DETERMINE—OF WHOM TO CONSIST.] The governor, surgeon general and secretary of state shall constitute a board to hear and determine all applications for relief that may arise under the preceding section, and they shall formulate and promulgate rules to govern the introduction of proof in such cases, and in all cases where the disability is not permanent they shall determine by a majority vote of said board the total amount of money that shall be paid by the state to the applicant in full satisfaction of his claim. The amount so allowed shall be due and payable from the annual maintenance fund of the National Guard, and upon the approval of the adjutant general and order of the governor or the state auditor shall draw his warrant upon said fund for the amount allowed, and the treasurer shall pay the same.

§ 78. DISABILITY—AMOUNT ALLOWED FOR.] If the disability of the person claiming relief by virtue of the aforesaid section, seventy-six, be a permanent disability, to-wit: the loss of a hand or part of a hand, or a foot or part of a foot, or a leg or an arm, or of sight, or of hearing, cases where the damage caused to the person by the disability incurred would be a continuous one, depending for a gross amount upon the years the person should live, the amount to be allowed and paid to the applicant shall be the same allowed monthly by the United States pension laws to soldiers of the United States army for the same injuries and paid in like manner every three months from said maintenance fund, on the certificate of the said board, approved by the adjutant general and ordered by the governor, and the auditor shall draw his warrant on the state treasurer for the same; *provided, always*, that all claims shall be computed from the date of application for relief under the provisions of this act.

§ 79. DRILL, DISCIPLINE AND UNIFORM.] The drill discipline and uniform of the National Guard shall be the same as that of the army of the United States; *provided*, that nothing in this section shall be so construed as to require companies now uniformed to supply new uniforms in place of those now worn, until such time as it shall become necessary to provide a new uniform, which new uniform shall be the same as worn by the United States regular army. The regulations of the army, articles of war and acts of congress of the United States shall be authority and govern in all cases.

§ 80. DEFINITIONS OF WORDS.] Whenever the word "National Guard" are used in this act, they shall be construed to mean South Dakota National Guard.

§ 81. REPEAL.] All acts and parts of acts that conflict with the provisions of this act or either of them, including Chapter 23 of the revised political code of 1903, is hereby repealed.

§ 82. EMERGENCY.] *Whereas*, the recent passage by the congress

of the United States of the militia law known as the Dick Bill, makes it desirable for this act to become a law as early as possible, therefore an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved March 6, 1903.

NATIONAL SANITARIUM.

CHAPTER 186.

(H. B. I.)

RELATING TO THE NATIONAL SANITARIUM AT HOT SPRINGS.

AN ACT to grant section 16, township 7, south, range 6 east, Black Hills meridian, in Fall River county, South Dakota, to the United States for national park in connection with national sanitarium for volunteer soldiers at Hot Springs, South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SCHOOL SECTION DONATED.] That section sixteen (16), township seven (7) south, range six (6) east, Black Hills meridian, in Fall River county, South Dakota, be, and the same is hereby granted to the United States for the use and purposes of a national park in connection with the national sanitarium for disabled volunteer soldiers at Hot Springs, South Dakota.

§ 2. EMERGENCY.] An emergency existing for the immediate taking effect of this act, the same shall be in force from and after its passage and approval.

NOTE BY THE SECRETARY: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

NORTHERN HOSPITAL FOR THE INSANE.

CHAPTER 187.

(H. B. 260.)

SETTING APART LAND FOR THE NORTHERN HOSPITAL FOR THE INSANE.

AN ACT appropriating and setting apart 87 acres of land to the Northern Hospital for the Insane.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. APPROPRIATION OF LAND.[There is hereby appropriated and set apart for the use and benefit and to become a part of the site to and of the Northern Hospital for the Insane, the north one-half of the South east quarter of Section four (4) and all that portion of the southeast quarter of section 4 lying east and north of the right of way of the Chicago and Northwestern Railroad Company in township 116, range 64 in Spink County, South Dakota.

§ 2. EMERGENCY.] An emergency existing for an immediate taking effect of this act the same shall be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 188.

(H. B. 249.)

RELATING TO THE NORTHERN HOSPITAL FOR INSANE

AN ACT to amend sections 561 and 562 of article 2 of chapter 9 of the revised political code of 1903, relating to the Northern Hospital for Insane.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 561 of article 2 of chapter 9, of the revised political code of 1903, be amended to read as follows:

All imbecile, feeble minded or epileptic persons who have been residents of the state for one year next preceding the application for admission to said hospital and who are incapable of receiving instructions in the common schools shall be entitled to be received at such hospital and maintained and educated at the expense of the state, if in the judgment of the superintendent the applicant is a suitable person to receive its bene-

fits; and if the capacity of such hospital and its facilities will permit. Persons now inmates of said institution whose parents, guardians or relatives are non-residents may be retained but for all such a fair compensation shall be paid, to be fixed by the board of charities and corrections.

§ 2. AMENDMENT.] That section 562 of article 2 of chapter 9 of the revised political code of 1903, be amended to read as follows:

Parents, guardians, or those having legal control, sending any person or persons for care, education and treatment to said hospital, will be required to provide suitable clothing, incidentals and expense of transportation to and from their homes, unless financially unable to do so, in which case a parent, guardian or the states attorney of the county where such indigent person resides, may make application to the county court, and upon a decision by said court that said person is a pauper and unable to procure suitable clothing or furnish transportation as herein provided, and that such person is a proper subject for admission, an order shall be made by said court to that effect, and the judge of said court shall certify the same to the superintendent of said hospital who shall provide the necessary clothing and incidentals for such person after such person shall have become an inmate of said hospital. The expenses for transportation, clothing and incidentals of all such indigent persons shall be a charge upon each county of which such person was a resident when admitted to said hospital.

It shall be the duty of the board of charities and corrections to fix an amount to be paid for clothing and incidental expenses not to exceed Forty dollars (\$40) per annum for each person, which amount shall be paid in advance as a condition for the admission of any person into said hospital.

The facts of destitution and indigence contemplated by this act shall be established prima facie by the certificate thereof of the judge of the county court of the county where such persons respectively reside; and upon the presentation of a certificate of the superintendent of said hospital to the auditor of any county that such destitute or indigent person is a regular and proper inmate of said hospital from such county, and of the sum fixed by the board of charities and corrections as herein provided as a condition of admission, said auditor shall draw his order on the treasurer of his county in favor of such superintendent for such sum of money as has been fixed by the said board as a condition of the admission to said hospital, and shall send such warrant to said superintendent and annually thereafter on or before the first day of October of each year, upon receipt of the report of the superintendent as to the condition of such fund, he shall draw his further order upon the treasurer of his county for such sum, which, added to the balance in the hands of said superintendent shall equal the sum so fixed by the board, so long as such person shall remain in such hospital; and the county treasurer upon whom such order is drawn shall pay the same upon presentation out of the general funds of his county, and the superintendent of said hospital shall keep and render annually on the first day of September to the board of charities and corrections and to

such county auditors a strict and detailed account of all such funds.

In cases where funds are supplied by parents, guardians or friends, for clothing and incidentals of inmates, such inmates shall be admitted to such hospital on the same terms and conditions as provided for county charges and as fixed by said board. The superintendent shall on the first day of September of each year send to each parent, guardian or friend furnishing money for clothing and incidental expenses of any inmate or inmates a strict and detailed account of the funds of such inmate showing the sum necessary when added to the balance on hand to equal the amount fixed by the board, and said parent, guardian or friend shall remit such amount to the superintendent on or before the first day of October following:

If for any reason such parent, guardian or friend fails to remit such amount by said first day of October the superintendent shall immediately certify such fact and the amount so due to the county auditor of the county from which such inmate was admitted and upon receipt of such certificate such inmate shall then become a charge upon said county for the expense of its necessary clothing and incidentals the same as though such inmate had been adjudged a charge upon such county in the first instance, and said county auditor shall immediately draw his warrant for the sum due and send the same to the superintendent which warrant shall be paid by the county treasurer of such county upon presentation.

§ 3. EMERGENCY.] *Whereas*, an emergency is hereby declared to exist this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1903.

OILS.

Chap 189
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CHAPTER 189.

(S. B. 177.)

RELATING TO THE INSPECTION OF OILS.

AN ACT to amend article 28 of chapter 27 of the political code of 1903, of the State of South Dakota, relating to the inspection of petroleum products, the appointment of inspectors, establishing of inspection districts, fees and salaries of inspectors, and prohibiting the sale of adulterated oils, and providing penalties for violations thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Article 28 of Chapter 27 of the Political Code of 1903, of the State of South Dakota be and the same is hereby amended to read as follows, to-wit: *Am. ch. 130 Laws '09*

Section 1. GOVERNOR TO APPOINT OIL INSPECTORS—DISTRICTS.] There shall be appointed by the Governor, by and with the consent of the Senate, at each biennial session of the legislature, three suitable persons residents of the respective districts for which they are appointed, who are not interested in manufacturing, dealing in or vending any product manufactured for illuminating purposes from petroleum as oil inspectors. One of said persons so appointed shall be a resident of, and have exclusive jurisdiction over all of those counties of this state lying principally south of the second standard parallel east of the Missouri river, and also that portion of the state lying west of the Missouri river and east of a line running north and south at one hundred and two degrees longitude, and south of the Cheyenne river, and the official title of said person shall be Inspector of Oils for the Southern District of South Dakota. Another shall be a resident of and have exclusive jurisdiction over all those counties lying principally north of the second standard parallel east of the Missouri river and that portion of the state lying west of the Missouri River and east of a line running north and south at one hundred and two degrees longitude, and north of the Cheyenne River, and the official title of such person shall be Inspector of Oils for the Northern District of South Dakota. And another of said persons shall be a resident of and have exclusive jurisdiction over all that portion of the state not included in the first two districts herein established, and whose official title shall be Inspector of Oils for the Black Hills District of South Dakota. The terms of office of such persons shall be two years, commencing on the first Tuesday in July succeeding his appointment and until his successor is appointed and qualified. The Governor shall have power to remove such persons from office and may fill any vacancy arising from such removal or from death or from removal from the district where he is appointed, by a new appointment.

§ 2. OILS MUST BE INSPECTED—FLASH TEST.] All mineral or petroleum oils or any fluid or substance which is a product of petroleum or into which petroleum or any product of petroleum enters or is found as a constituent element, whether manufactured within this state or not, shall be submitted to inspection as provided in this act before being offered for sale for consumption for illuminating purposes in this state. Every person, firm or corporation dealing in, shipping into or manufacturing within this state, any such product, shall before selling or offering the same for sale for illuminating purposes, stamp or brand on each and every package, barrel or cask in plain figures and letters the lowest temperature at which the vapor from said oil will flash or ignite, and the gravity thereof as measured by the Beaume hydrometer. For this purpose the vendor or dealer or manufacturer may brand or stamp upon said cask or barrel or package substan-

tially the following words: "Flash test, not less than 105 degrees Fahrenheit. Gravity degrees, as measured by the Beaume hydrometer," inserting in the blank the figures denoting the true gravity. *Provided, however,* that any person or corporation selling and delivering oil in bulk by means of portable tanks shall in lieu of the stamp or brand herein provided for furnish and deliver to the purchaser a statement in writing containing the date of sale and the true condition of the oil as to its gravity and a certificate showing that it will not emit a combustible vapor or ignite at a temperature below one hundred and five (105) degrees Fahrenheit, and that said oil has been duly inspected and approved by the state oil inspector, and the purchaser of said oil shall immediately post said statement in a conspicuous place where it may be readily seen by the public. Any person or corporation failing to comply with the foregoing provisions shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty of twenty-five dollars (\$25.00) for each offense, together with costs provided by law.

§ 3. UNLAWFUL TO SELL OIL BEFORE INSPECTION—MUST CONFORM TO CERTAIN CONDITIONS.] It shall be unlawful for any person, corporation or association to sell or offer for sale or give away any illuminating oils until the same shall have first been inspected by the state oil inspectors or their deputies, and it is further provided that it shall be unlawful for any person, corporation or association to sell or offer for sale any product of petroleum for illuminating purposes that does not conform to the following conditions; First, the color shall be water white, but a slight bluish opalescence is permissible. It shall not contain water nor tar like matter. It shall not contain more than a trace of any sulphur compound. It shall not contain more than four per cent by weight of residue after being distilled at a temperature of not more than five hundred seventy degrees Fahrenheit. It shall not give a flash test below one hundred five (105) degrees Fahrenheit, open test, and the tester used for such purposes shall be the New York state board of health tester. The gravity shall not be less than forty six (46) degrees measured by the Beaume hydrometer. The state oil inspector or his deputies shall reject all oils for illuminating purposes that do not meet any one or all of the foregoing requirements. Any oils that present a yellowish or dark colored, dirty appearance to the eye may be rejected and disapproved for illuminating purposes by the inspectors or their deputies without further test. And such discoloration shall be prima facie evidence that they are not such a product as is properly subject to sale for illuminating purposes within this state. The State oil inspector and his deputies are not required in every case to make a complete analysis of the oils inspected to ascertain every form of impurities such as sulphur and tar-like matter, but whenever in the opinion of the state inspector or his deputies it is necessary that any of the oils provided for in this section shall be more thoroughly analyzed, it shall be his duty to procure a sample of such oil and forward it to the nearest state chemist for the purpose of a more detailed analysis to determine in what particular the impurities or imperfections exist. And if upon such analysis

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it is demonstrated that some other impurity or imperfection exists in said oil not in this act specified that renders such oil unfit for illuminating purposes, it shall be his duty to reject such oil for such purposes. It shall be the duty of such chemist to make such analysis without delay and without expense to the state and return such at the earliest practical moment to the said oil inspector from whom it was received. Any person violating any of the foregoing provisions shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars.

§ 4. INSPECTORS MUST TAKE OATH OF OFFICE AND FURNISH BOND—AMOUNT OF.] The persons appointed state oil inspectors shall, before entering upon the duties of his office, take the oath required of other civil officers, and execute a bond to the state in the sum of two thousand dollars with sureties to be approved by the governor, conditioned for the faithful performance of his duties. The inspectors when so appointed and qualified are empowered to appoint a suitable number of deputies, who are not interested in manufacturing, dealing in or vending any illuminating oil manufactured from petroleum. Such deputies are empowered to perform the duties of inspection of oils and shall be liable to the same penalties as the state oil inspectors, and such inspectors may remove any of the deputies and appoint others in their place. Each deputy shall before entering upon the duties of his office, take a like oath and execute a bond as aforesaid in the sum of not less than five hundred dollars nor more than two thousand dollars as the state inspectors may direct, which bond with such sureties shall be approved by the county judge and filed in the office of the clerk of the circuit court of the county for which such deputy inspector is appointed. Such inspectors and their deputies are empowered to and they shall upon application and the tender of the fees herein provided for, enter into any store, shop or warehouse in which such illuminating oils are kept for sale, and inspect and test such oils, branding the barrels in which the same are contained as provided in this act. They shall upon application and tender of the fees, during business hours, inspect and test all illuminating oils standing upon the railway track in what is known as tank cars, in which it is shipped into the state, and the same shall not be drawn off into any warehouse tank or unloaded until so inspected, and no oil subject to test as herein provided shall be drawn off or removed from the tank, cask, barrel or other vessel in which it has been shipped into the state, until the same has been tested as herein provided. The inspectors and their deputies shall be authorized and empowered, in case they or either of them shall find on the premises of any person any illuminating oils which appear to be uninspected, duly to inspect the same, and shall have lien upon such oils so inspected for fees, which lien may be foreclosed in the manner provided for the foreclosure of like liens, and the oil so inspected shall not be sold or disposed of or removed from the premises where inspected until said lien has been finally disposed of. It shall be the duty of each of said inspectors or their deputies to examine and test the quality of all oils offered for sale for illuminating purposes in their respective districts

by any manufacturer, vendor or dealer, and if, upon such testing and examination, they shall meet the requirements in this act provided he shall fix his brand or stamp upon the cask, tank, package or barrel containing the same, the words as follows, "Approved; flash test degrees," inserting the actual flash test, "gravity test degrees, Beaume hydrometer," inserting the actual gravity and following this with his official signature and date of inspection, and to more effectually carry out the provisions of this article, it shall be lawful for any state inspector or his deputy to enter into or upon the premises of any manufacturer, vendor or dealer in such oils for the purpose of making the inspection herein required. If upon such inspection it is found that such oil does not meet the requirements provided for in this act, it shall be the duty of the officer to affix his brand or stamp upon the cask, package, tank or barrel containing said oil in large, plain letters, the words "rejected for illuminating purposes," and it shall thereupon be unlawful for any person to sell or offer for sale any such oil for illuminating purposes within this state. If any person shall sell or offer for sale such rejected oil for such purposes, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty in the sum of not less than twenty-five dollars, and not more than three hundred dollars, in the discretion of the court. *Provided*, that any product of petroleum that has been subjected to inspection by one of the state inspectors shall be exempt from the payment of inspection fees to another if further inspected.

§ 5. FEES FOR INSPECTION—WHERE INSPECTED.] The said inspectors shall be entitled to demand and receive from the owner or person calling upon them, or for whom they shall inspect the sum of forty cents for testing and marking a single barrel; twenty-five cents each when not exceeding ten in number, and fifteen cents per barrel when the number of barrels is greater than ten submitted at one time for inspection. When the amount contained in any tank, cask or other vessel shall exceed fifty-five gallons, each fifty-five gallons shall constitute a barrel. All oils in quantities less than fifty barrels shall be inspected at a railroad or river station, unless the person requesting such inspection shall pay the inspector in advance in addition to the compensation hereinbefore provided ten cents per mile for each mile necessarily traveled in going to and returning from the place where such inspection is to be made, the distance to be computed from the place of residence of such inspector.

§ 6. SALARY AND FEES—ACCOUNT TO STATE AUDITOR.] Each of such oil inspectors shall receive an annual salary of one thousand five hundred dollars. He shall also be allowed such further sums as he may actually and necessarily expend whether for travelling expenses incurred in the discharge of his duties or for the proper prosecution of any case of offense arising under the provisions of this act. Each deputy inspector shall be entitled to the fees provided for in this act for duties performed by him but in no case shall he receive more than fifty dollars per month, except as otherwise provided. Each deputy inspector shall also be entitled to and allowed all actual and necessary expenses for railroad, stage and steam-

*Amended
June 17, 1900*

*Amended
June 17, 1900*

boat fares incurred in the discharge of his duty as such deputy inspector and for such other sums of money as by the authority of the state inspector he may expend in the prosecution of offenses arising under the provisions of this act. All salaries and expenses provided for in this act shall be paid by the state inspector out of the money received for the inspection of oils. *Provided*, that in case the amount of money received for the inspection of oils according to the provisions of this act shall be in excess of the sum required to pay the salaries and expenses of the state inspectors and their deputies as provided hereinbefore, the amount of such excess shall be paid into the general fund of the state treasury, and in no case shall his salary be in excess of fees collected. Each of said inspectors shall render to the state auditor a detailed account of all the receipts and disbursements of his office, and shall also incorporate a copy of such reports in his annual report to the governor, but nothing but the actual footings and recapitulations contained in said report shall be published in the state auditor's report.

§ 7. REPORT MUST BE MADE.] It shall be the duty of each and every deputy appointed by the said oil inspectors on the first Tuesday of each July, October, January and April in each year to make in duplicate a detailed and itemized statement of all the fees and moneys received and collected by him for the inspection of oils and from all other sources by virtue of his said office. Said report shall also show the number of barrels of oil inspected at each inspection, when and where inspected, for whom, and the total number of barrels inspected for the preceding quarter. To each of said reports shall be attached an affidavit stating that the report and the whole thereof is true. If such deputy shall make false report he shall be deemed guilty of perjury, and upon conviction thereof shall be punished by imprisonment in the state penitentiary in the manner and for the time prescribed by law for such offense. Said report shall be made in duplicate and one copy immediately mailed to the oil inspector of the district wherein such deputy resides and the other to the state treasurer. It shall be the duty of each deputy to pay over to the inspector of their respective districts quarterly or oftener if required by him, all fees collected and other moneys received by virtue of his office, taking his receipt therefor.

§ 8. MONEY MUST BE PAID OVER TO THE STATE TREASURER.] It shall be the duty of the state oil inspector to pay over to the state treasury annually all moneys received for the inspection of oils and all moneys received from all other sources by virtue of his said office in excess of salary and expenses in this act provided, taking the receipt of the Treasurer therefor.

§ 9. INSPECTORS MUST PROVIDE FOR INSTRUMENTS AND APPARATUS.] The inspectors and their deputies shall provide themselves at their own expense with the necessary instruments and apparatus, stencils, brands and stamps for testing and marking the quality of illuminating oils. The inspectors shall also prepare the forms of all stencils, brands and stamps provided for in this article, and also all necessary rules and regulations

for inspection, not inconsistent with the provisions of this act, and such rules and regulations shall be binding on all their deputies in this state. The inspectors or their deputies may, in their discretion, without fee, at any time subject any oils to a reinspection in the manner provided in section 3, and if on such reinspection any of such oil shall fail to meet the requirements of this article, the inspector or deputy shall erase the brand "approved" from the barrel or other vessel containing such oil, and shall brand thereon the words "rejected for illuminating purposes," and it shall thereafter be unlawful to sell or dispose of such oil, and the persons so offending shall be guilty of a misdemeanor and be subject to the penalty provided in Section 3 of this act.

§ 10. PENALTY FOR COUNTERFEITING BRAND.] Any manufacturer, refiner, producer or any dealer or vendor in coal oil or other products of petroleum in any county, city or town situated within the district in which such inspector is appointed who shall neglect to give notice to such inspector of any oil or fluid not already inspected by some authorized inspector of this state within two days after the same is received into his possession, or who shall offer any such oil or product for sale before the same has been so inspected or who shall sell or attempt to sell to any person for illuminating purposes any such oil or fluid which is below the approved standard provided for in this act, as indicated and determined in the manner herein provided, or who shall use any cask, package, barrel or other thing having the inspectors brand thereon the oil or fluid therein not having been inspected, or who shall counterfeit any brand shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars (\$25) and not exceeding five hundred dollars (\$500) and be liable to the party injured for all damages occasioned thereby, and all the casks, barrels, or packages so falsely used and their contents shall be forfeited and the same shall be immediately rejected; *provided, however*, that the owner of such petroleum product upon tendering and paying over to the oil inspector or his deputy double the amount of fees and costs provided by this act for the inspection of oils may have a test made of such petroleum product, and if such product proves to be of the quality that would have entitled it to have been approved theretofore upon proper inspection and test, such product may be released and sold or used by such owner.

§ 11. SELLING OIL NOT INSPECTED—PENALTY FOR.] Any person or persons, whether vendor, manufacturer, wholesale or retail dealer who shall sell or attempt to sell to any person or persons in this state any of the illuminating oils or fluids hereinbefore mentioned before having the same inspected as provided in this act, shall be deemed guilty of a misdemeanor and shall be subjected to a penalty in any sum not less than twenty-five dollars nor exceeding three hundred dollars and if any vendor or wholesale or retail dealer in any of the said illuminating or heating oils or fluids shall falsely brand the package, barrel or cask containing the same so as to deceive the purchaser thereof in any manner as to the contents of the same, or shall use such packages, barrels or casks having

the inspectors' brand thereon without having the oils or fluids inspected by the proper inspecting officer, he or she shall be deemed guilty of a misdemeanor and shall be subjected to a penalty in the sum of not less than fifty dollars and not exceeding three hundred dollars.

§ 12. WHOLESALE DEALER MUST HAVE OIL INSPECTED.] If any wholesale dealer in petroleum products shall sell and deliver to any retail dealer any such products within this state that upon the proper test in this act provided proves not to be of the required standard, such wholesale dealer shall not have a cause of action against the retail dealer for the purchase price thereof and in case the same has already been paid for the purchase price together with the costs of collecting and damages may be recovered by such retail dealer; and in addition to the usual costs provided by the code of civil procedure, the plaintiff may recover of and from the defendant an attorney's fee of twenty-five dollars.

§ 13. INSPECTOR MUST NOT ALLOW HIS INSTRUMENTS TO BE USED BY OTHERS.] Any oil inspector or deputy who wilfully permits any other person or corporation to take into his possession any brand, stencil or utensil used by him in his official capacity for the purpose of using the same in branding oils and in such manner avoiding the legal inspection of such oils shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment at hard labor in the state penitentiary for a term not exceeding five years and not less than two years in the discretion of the court.

§ 14. INSPECTOR MUST NOT DEAL IN OIL—PENALTY.] No inspector or deputy shall while in office traffic directly or indirectly in any article in which petroleum or other product thereof is a constituent part, which he is appointed to inspect, and any inspector or deputy who violates any of the provisions of this section is guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding five hundred dollars and be removed from office.

§ 15. MUST ENTER COMPLAINT FOR VIOLATION.] The inspectors or any deputy having knowledge of the violation of any of the provisions of this act shall enter complaint before any court of competent jurisdiction against the person so offending, and in case they neglect to enter such complaint the inspector or deputy so failing shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one hundred dollars and shall be removed from office.

§ 16. ACCOUNT MUST BE KEPT.] It shall be the duty of each deputy inspector to keep a true and accurate record of all oil inspected by him, which record shall state the date of inspection, the number of barrels and the name of the person for whom inspected, and he shall make a report to the state inspectors at the end of each month containing a true transcript of such record, and it shall be the duty of the state inspectors to keep a like record of all oils inspected by them, and at the end of each year to make a report to the secretary of state of the number of barrels so inspected and the name of the person for whom inspected, also the amount of inferior or unsafe oils for illuminating purposes, with the name

of the dealer in whose hands found and from whom received by such dealer. Such record shall be open for the inspection of any person interested.

§ 17. FINE—HOW RECOVERED.] The fines herein provided for may be recovered in the name of the State of South Dakota before any Justice of the Peace or Circuit Court of the county where the act is committed, and it shall be the duty of the state's attorney in such county to prosecute all offenses under this act and warrants for the arrest of any person offending under this act may be issued under sworn complaint by any person having knowledge of the offense.

§ 18. ATTORNEY'S FEES TO BE COLLECTED.] In all cases of prosecution under the provisions of this act, there shall be collected as a part of the costs incurred in such prosecution from the offending party an attorney's fee of twenty-five dollars in each case and the state's attorney prosecuting the same shall not be required to account for such fee and it shall not be deducted from his regular salary.

§ 19. FINES—HOW DISPOSED OF.] In all prosecutions under the provisions of this act where fines are collected for a violation of any of its provisions, one quarter of the fines collected shall be paid to the state inspector of oils or his deputy having the case in charge, and such sums so collected by such inspector and his deputy shall be in addition to the compensation already provided for and shall not be taken into account in fixing the maximum rate of compensation.

§ 20. BRAND MUST BE DESTROYED BEFORE SELLING CASK OR BARREL.] Any person selling or dealing in illuminating oils produced from petroleum who sells or disposes of an empty cask or barrel which has been branded by the state oil inspector or deputy, before cancelling, removing and effacing such brand, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine in any sum not exceeding five dollars for each cask or barrel thus disposed of.

§ 21. GAS OR VAPOR EXEMPTED—WHEN.] Nothing in this article shall prevent the use of gas or vapor from oils for illuminating purposes when the oils from which gas or vapor is generated are contained in closed reservoirs outside of the building illuminated or lighted by such gas, nor shall anything in this article be so construed as to prevent the use in street lamps of lighter products of petroleum, such as gasoline, benzine, benzole and naphtha.

§ 22. PENALTY FOR VIOLATION.] Any person violating any of the provisions of this article for which violation a penalty is not herein expressly provided, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not exceeding six months, or by both.

§ 23. QUESTIONS MUST BE DECIDED BY INSPECTOR.] All questions of dispute arising between the deputy inspectors and manufacturers and dealers shall be submitted to the state inspector for their respective districts for his decision, and his decision shall be final. In all prosecutions arising under this act where fines or penalties are recovered, no property

shall be exempt from execution and sale, except the absolute exemptions allowed by law.

§ 24. RULES AND REGULATIONS.] The oil inspectors may provide reasonable rules and regulations governing the sale and disposal of petroleum products shipped into this state in packages other than car tanks, and any manufacturer, vendor or dealer acting in strict compliance with such rules and regulations so made shall be exempt from penalties prescribed by this act. *Provided*, that in no case shall the manufacturer, vendor or dealer in petroleum products avoid the penalty provided for selling or offering for sale any oil that does not comply with the requirements of this act; and *provided, further*, that all such rules and regulations shall be uniform throughout the state.

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§ 25. GASOLINE—GRAVITY OF.] For the purpose of this act gasoline shall be deemed to be and subject to the same supervision and control as provided in this act for illuminating oils except that the inspectors are not required to test it other than to ascertain its gravity and it shall be unlawful for any manufacturer, dealer or vendor to sell or offer for sale any petroleum product known as gasoline that has a gravity less than 68 degrees and shall brand or label any cask, barrel or package containing such product with figures denoting the gravity and the word "gasoline" in large red letters at least one and a half inches in size. Upon failure to comply with the foregoing provisions the offending person shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars and not more than three hundred dollars. If any manufacturer, vendor or dealer shall adulterate any gasoline with water or other injurious matter he shall be subject to a like penalty and shall further be liable to the party injured for any resultant damages, to be recovered in a civil action.

§ 26. All acts and parts of acts in conflict with this act be and are hereby repealed.

Approved March 10, 1903.

PEDDLERS LICENSE.

105 NW. 99

— Jim Chap. 147
Law of 1905

156 NW 789

CHAPTER 190. 125 N. W. 567

(H. B. 215.)

Chap 190
97-NW 463

RELATING TO PEDDLERS' LICENSE.

AN ACT defining peddlers; requiring them to take out a license; fixing the fee therefor, and providing penalties for the violation of this act.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PEDDLER DEFINED.] Whoever shall deal in the selling of goods wares or merchandise, except nursery stock, agricultural products, including milk, butter, eggs and cheese, by going about from place to place to sell the same, is declared to be a peddler, *provided*, that this section shall be intended to include among those required to obtain license as peddlers all such persons as are transient merchants, traders or dealers; such persons as bring into any town, city or village in any manner goods, wares merchandise, notions or other articles of trade except such as are excepted in this section, for the purpose of selling the same in the manner provided in this section, and do not become permanent merchants, traders or dealers in such town, city or village: permanent merchants, traders and dealers being here defined to be those who pay taxes in the county where the business is carried on upon their goods, wares, merchandise or other articles of trade the same as other resident dealers.

§ 2. MUST OBTAIN LICENSE.] No person shall deal as a peddler without a license issued annually and no two or more persons shall deal under the same license as partners, agents or otherwise.

§ 3. LICENSE—WHAT TO CONTAIN.] Every license shall state the manner in which the dealing is carried on whether on foot or with one or more beasts of burden, the kind of cart, wagon or carriage, or if on water the kind or boat or vessel to be employed, and shall be in force and effect for one year from the date of issue and shall apply and be effectual only in the county in and by which it is issued.

§ 4. LICENSE—HOW OBTAINED.] Any person may obtain a peddler's license by applying to the county auditor of the county in which he wishes to carry on his trade, and by paying the amount herein provided for said license.

§ 5. FEES FOR.] Every such applicant before he shall be entitled to such license shall pay the county auditor the following license fees: If he intends to travel by bicycle or on foot, including railroad or other public conveyances, but carry with him his goods, wares, or merchandise, twenty

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dollars; if he intends to travel and carry his goods with a single horse or other beast carrying or drawing a burden, thirty-five dollars; if he intends to travel with a vehicle or carriage drawn with two or more horses or other animals, fifty dollars; if he intends to deal as a transient merchant, trader or dealer, seventy-five dollars, *provided*, that any such applicant taking license as such transient merchant trader or dealer shall in addition to the amount paid for such license also pay to the authorities of the said town, city or village where he may sell or offer for sale any goods, wares or merchandise, a sum not exceeding fifty dollars per day for each day that such person may be engaged in selling or disposing of any such goods, wares or merchandise to be determined by ordinance or resolution of the town, city or village where he may engage in business aforesaid which ordinance or resolution shall provide when and in what manner such per diem shall be paid. 125 N. Y. 567.

§ 6. DUTY OF COUNTY AUDITOR.] All sums received by the county auditor for peddlers' license shall be by him deposited with the county treasurer and covered into the county general fund for use of the county.

§ 7. VIOLATION—PENALTY.] Any person who shall be found dealing as a peddler without having paid and received the license herein specified or who shall upon demand of any sheriff, constable or any householder of the county refuse to produce his license and permit the same to be read shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars. 125 N. Y. 567.

§ 8. NOT APPLICABLE TO CERTAIN PERSONS.] The provisions of this act shall not apply to traveling salesmen doing business with retail merchants, manufacturers or jobbers or with state, county, township and city officials whether they carry samples or not.

§ 9. REPEAL.] All acts and parts of acts in conflict with [this] act are hereby repealed.

§ 10. EMERGENCY.] Whereas an emergency is declared to exist, this act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

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PHARMACY.

CHAPTER 191.

(S. B. 93.)

RELATING TO PHARMACISTS.

AN ACT to amend section 2860 of the Revised Political Code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2860 of the revised political code be amended so as to read as follows:

Section 2860. It shall be lawful for any registered pharmacist owning and conducting a pharmacy, whose certificate of registration is in force, to sell spirituous or vinous liquors for medicinal, mechanical, scientific and sacramental purposes only, and it shall be unlawful for any registered pharmacist to sell or give away any intoxicating liquors whatever to be used as a beverage or drank upon the premises or in a room or place adjoining the premises; and any registered pharmacist who shall sell any intoxicating liquors for the purposes mentioned in this section shall have a stock of drugs of the value of not less than six hundred dollars, exclusive of fixtures and intoxicating liquors. Any registered pharmacist who shall sell or in any manner dispose of said intoxicating liquors for any other purpose than authorized in this section or allow intoxicating, brewed, or fermented liquors to be drank upon the premises, or in any room or place adjoining these premises, shall be upon conviction thereof fined not less than one hundred dollars nor more than three hundred dollars, and for the second conviction shall be imprisoned in the county jail not less than ten nor more than thirty days, and shall forfeit his registration as a registered pharmacist and shall be liable to all the penalties, prosecutions and proceedings at law and in equity provided against persons selling without authority; and upon said conviction the clerk of the circuit court shall within ten days after such judgment or order transmit to the secretary of the board of pharmacy the certified record thereof, upon receipt of which the said board of pharmacy shall at their first regular meeting thereafter strike the name of said druggist from the list of registered pharmacists and revoke his certificate of registration.

Provided, that no such pharmacist shall sell spirituous or vinous liquors for medicinal, mechanical, scientific or sacramental purposes or either of them, within the limits of any precinct, town or city, wherein the question of granting permits to sell intoxicating liquors at retail has been submitted to the voters thereof at the last preceding general election, as provided in Section 2856 of this code, and such question shall have been decided at said election against the granting of such permits for the sale of intoxi-

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cating liquors at retail, except upon a prescription of a regularly licensed resident physician of the county wherein such pharmacist conducts his business, and any pharmacist violating the provisions of this section in any such precinct, town or city, wherein the question of granting permits for the sale of intoxicating liquors at retail shall at the last preceding general election have been decided against, shall upon conviction of such offense be fined not to exceed \$100.00 or be imprisoned in the County Jail not more than thirty days or be punished by both fine and imprisonment in the discretion of the court.

Approved March 12, 1903.

CHAPTER 192.

H. B. 162.

RELATING TO THE STATE BOARD OF PHARMACY.

AN ACT to amend sections 268, 277, and 279 of article 9 of chapter 4 of the revised political code of 1903, relating to establishing a state board of pharmacy regulating the practice of pharmacy in the state and providing for penalties for the violation of the laws regulating the practice of pharmacy, and to repeal section 284 of article 9 of chapter 4 of the revised political code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 268 of article 9 of Chapter 4 of the revised political code of 1903 be and the same is hereby amended to read as follows:

Section 268. The state board of pharmacy shall consist of three members who shall hold their office for a term of three years or until their successors are appointed and qualified. On or before the first day of October, of each year, or whenever a vacancy shall occur on said board, the governor shall appoint a licentiate in pharmacy who shall be a member of the South Dakota Pharmaceutical Association as a member of the state board of pharmacy, or to fill a vacancy in said board as the case may be.

§ 2. That section 277 of article 9 of chapter 4 of the revised political code of 1903 be and the same is hereby amended to read as follows:

Section 277. The secretary of the association shall receive a salary which shall be fixed by the association. He shall also receive his traveling and other necessary expenses incurred in the performance of his official duties. The members of the board shall receive the sum of five dollars (\$5.00) for each day actually engaged in its service and all legitimate and necessary expenses incurred in the performance of their duties; said expenses and compensation for services of said secretary of the association and members of said board, shall be paid from the fees received by the as-

sociation under the provisions of this article; and no part thereof shall be paid out of the state treasury.

§ 3. That section 279 of article 9 of chapter 4 of the revised political code of 1903 be and the same is hereby amended to read as follows:

Section 279. It shall be unlawful for any person other than a registered pharmacist to retail compound or dispense drugs, medicines or poisons, or to open or to conduct any pharmacy or store for retailing, compounding or dispensing drugs, medicines or poisons, unless such person shall be a registered pharmacist within the meaning of this article except as herein provided; and any person not being a registered pharmacist within the meaning of this article who shall compound or dispense drugs, medicines or poisons or who shall keep a pharmacy or store for retailing or compounding medicines, or who shall take, use or exhibit the title of a registered pharmacist, shall be deemed guilty of a misdemeanor, and for each and every offense, he shall upon conviction thereof, be punished by a fine of not less than fifty dollars, (\$50) nor more than one hundred dollars (\$100) or by imprisonment in the county jail not less than ten (10) days nor more than thirty (30) days or by both such fine and imprisonment. Any registered pharmacist who shall permit the compounding or dispensing of prescriptions or the vending of drugs or poisons in his store or place of business, except under the supervision of a registered pharmacist or except by a registered assistant pharmacist as herein provided, or any pharmacist or assistant who, while continuing in business shall fail or neglect to procure registration, or any person who shall willfully make any false representations to procure registration for himself or any other person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) or by imprisonment in the county jail not less than ten (10) days nor more than thirty (30) days or by both such fine and imprisonment. *Provided*, that nothing in this article shall apply to or in any manner interfere with the business of any physician as a physician or prevent him from supplying to his patients such articles as may seem to him proper, and *provided, further*, that no part of this section shall be so construed as to give the right to any physician to furnish any intoxicating liquors to be used as a beverage on prescription or otherwise.

§ 4. REPEAL.] That all of section 284 of article 9 of chapter 4 of the revised political code of 1903 be and the same is hereby repealed.

§ 5. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

PUBLIC RECORDS.

CHAPTER 193.

(H. B. 97.)

RESTORATION OF PUBLIC RECORDS.

AN ACT providing for the restoration of records affecting title to real property.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. LOST INSTRUMENTS—HOW RESTORED.] That whenever the loss or destruction in the office of the Register of Deeds of the record of an instrument affecting the title to real property in this state shall have happened, or shall hereafter happen, and the original instrument from which said record was made is lost and cannot be produced, any person or persons interested therein may make a written application to the circuit court of the Judicial circuit in which said office of Register of Deeds is situated, for an order permitting the recording in said office of a copy of said instrument. Said application shall be accompanied by a substantial copy of said original instrument and verified by an affidavit showing the destruction of the record and the loss of the original instrument; that the destruction of the record and loss of the original instrument occurred without fault or negligence of the party making the application, and that said destruction of such record, unless supplied, will or may result in damage to the person or persons making such application. Thereupon the Circuit Court shall cause said application to be entered of record in said court and due notice of said application shall be given by publishing the same for three successive weeks in such newspapers as the court may direct specifying the time when and place where said application will be heard by said Court. If upon such hearing said Court shall be satisfied that the statements contained in said written application are true, and that the copy of the original instrument attached to the application and submitted, is substantially a true copy of the instrument originally recorded, said Court shall make an order providing that said copy be recorded in the proper Register of Deeds' office, in lieu of the record destroyed, and the record so made or duly certified copy thereof, shall thereafter be received in the courts of this state as presumptive evidence of the contents of the original instrument first recorded.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 4, 1903.

REAL ESTATE.

CHAPTER 194.

(H. B. 144.)

DETERMINING ADVERSE CLAIMS TO REAL ESTATE.

Quapaw v. Hoover + Tilton, 8 S.D. 429
 AN ACT entitled an act to provide for determining adverse claims to real estate and for quieting title thereto by action in the circuit court and for making unknown persons and the heirs at law and devisees and legatees and creditors and executors, and administrators of deceased persons parties defendants thereto.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. ACTION TO DETERMINE ADVERSE CLAIMS.] An action may be maintained by any person or persons having or claiming to have an estate in fee in any real property, whether in or out of possession thereof and whether said property is vacant or occupied against any person or persons claiming an estate or interest in or lien or incumbrance upon the same for the purpose of determining such adverse estate, interest, lien or incumbrance, and against all persons who appear from the records in the office of the register of deeds, the office of the county treasurer or of the clerk of courts in the county where the land lies, or other public records, to have or to have ever had any estate or interest in or lien or incumbrance upon such lands, and against the executors, administrators, heirs at law, devisees, legatees and creditors of any such person or persons who may be deceased, whether such executors, administrators, heirs at law, devisees, legatees and creditors be known or unknown, and generally against all persons unknown who may have or claim to have any estate or interest in or lien or incumbrance upon such real property, for the purpose of quieting the title to such real property, and of determining such estate, interest, lien or incumbrance.

§ 2. DEFENDANTS.] In such action all persons who have or claim to have any estate or interest in or lien or incumbrance upon the premises and all persons who shall appear of record as set forth in section one of this act to have or to have ever had any estate or interest in or lien or incumbrance upon such real property or any part thereof may be made defendants by name, and, if any such person, be dead, the heirs at law, devisees and legatees of such person and the executor or administrator of such deceased person, if one has been appointed, whether such appointment has been made by a court of this state, or of any other state of the United States, or foreign country, may also be made defendants by name if known, and served with summons as hereinafter provided, and if any such heirs at

law, devisees or legatees be unknown or uncertain or not ascertainable by the use of due diligence, or if it be unknown or uncertain or not ascertainable by the use of due diligence whether an executor or administrator has been appointed for such deceased person, such unknown or unascertained heirs, devisees and legatees, and the executor or administrator of such deceased person may be made defendants as "the unknown heirs, devisees, legatees and the executor or administrator of deceased," inserting the name of said deceased; and the creditors of any such deceased person may also be made defendants in such action by designating them in the summons and complaint as "the creditors of deceased," inserting the name of such deceased; and in such action all other persons who may have any interest in or lien or incumbrance on the premises may be made parties as unknown defendants generally by designating them in the summons and complaint as "all persons unknown who have or claim to have any estate or interest in or lien or incumbrance upon the premises described in the complaint."

§ 3. PLEADINGS, COMPLAINT, ANSWER.] It shall be necessary for the plaintiff to state in general terms in his complaint in such action only that he has or claims title in fee to the property, which must be described with sufficient certainty to enable an officer on execution to identify it, that the defendants are proper parties under the provisions of this act, and that the action is brought for the purpose of determining all adverse claims to such property and of quieting title thereto in the plaintiff. The plaintiff may also allege that he is entitled to the possession of the property and may allege any facts concerning the use and occupation and the rents, issue and profits of the property and the value thereof which may be pertinent. The complaint shall also contain a prayer for the relief to which the plaintiff deems himself entitled, and shall call upon the defendants to set forth all their adverse claims to the property described. The defendant in his answer must set forth fully and particularly the origin, nature and extent of his claim to the property; and may set forth his rights in the property as a counter claim and demand affirmative relief. The provisions of the code of civil procedure shall apply to actions under this act so far as not in conflict herewith respecting improvements, possession and rents, issues and profits of the premises.

§ 4. JURISDICTION.] The court shall have jurisdiction in such action to determine who are the heirs at law, devisees and legatees of any deceased person who had in his lifetime any interest in or lien or incumbrance on the premises involved between themselves as well as with respect to the rights of the plaintiff, and to make an adjudication upon the rights of such heirs, devisees and legatees and of all creditors of such deceased person in and to such premises which shall be valid and binding upon them and upon all the world, and if such heirs at law, devisees and legatees of such deceased person and the creditors of such deceased person and the unknown defendants in said action or any of them, shall fail to appear in such action and set forth and assert their interest in or claim to the premises involved they shall be by the judgment and decree of the court forever

barred and enjoined from thereafter claiming or asserting any title or interest in or lien or incumbrance upon or claim to the premises involved in the action. From the time of the publication of the summons as herein-after directed the circuit court shall have jurisdiction of the estate of any such deceased person to make final settlement thereof so far as may be necessary to a complete determination of the title to the premises involved.

§ 5. FILING COMPLAINT, SUMMONS.] The action shall be commenced by the filing of a complaint in the clerk's office and the issuance of a summons, which, after the title of the action, shall be in the following form:

"The State of South Dakota, to the Above Named Defendants:

"You are hereby summoned and required to answer the complaint of the plaintiff, which was filed in the office of the clerk of this court at..... in..... county, South Dakota, on the day of.....19.., and which prays for a judgment quieting the title to and the determination of all adverse claims against the premises described in the complaint, situate in said county to-wit:, and to serve a copy of your answer to said complaint on the undersigned at their office in, within thirty days after the completed service of this summons upon you, exclusive of the day of such service; and if you fail to answer said complaint within that time the plaintiff will apply to the court for the relief demanded in the complaint.

*".....
"Attorneys for Plaintiff."*

§ 6. SERVICE OF SUMMONS.] The summons shall be served upon all the defendants who are specified by name in the summons and complaint either personally or by publication, in the manner provided in the code of civil procedure. The court may also grant an order for service of summons by publication upon all the unknown defendants whether such unknown defendants be made parties as the unknown heirs, legatees, executor or administrator of a deceased person, or as creditors of such deceased person; when it shall be made to appear by affidavit to the satisfaction of the court or a judge thereof that such defendants are unknown or cannot after due diligence, be ascertained, or that it is uncertain and cannot, after due diligence, be ascertained whether said deceased had any heirs, or appointed any legatees or devisees, or whether any executor or administrator has been appointed for the estate, or whether he had any creditors. The court may also grant an order for service of summons by publication upon "all persons unknown who claim to have any estate or interest in or lien or incumbrance upon the premises described in the complaint" and not included in any of the foregoing classes of defendants upon the filing of an affidavit by the plaintiff or his attorney stating that if there are any persons other than the defendants who are named in the summons and complaint or specified therein as heirs, legatees, devisees, executor or administrator or creditors of a deceased person, such persons are unknown. Service pursuant to such order of publication shall be made in the manner provided by the code of civil procedure. *Provided, however, that deposit of a*

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copy of the summons and complaint in the postoffice shall not be required as to unknown defendants but publication alone shall be sufficient, which publication shall be equivalent to a personal service on such unknown party or parties.

§ 7. LIS PENDENS.] Immediately after the filing the complaint in the circuit court, the plaintiff must record in the office of the register of deeds of the county, or of the several counties in which the property is situated, a notice of the pendency of the action containing the title of the case the object of the action and a description of the property to be affected thereby. From the time of filing such notice for record all persons shall be deemed to have notice of the pendency of the action.

§ 8. CREDITORS.] Any creditor of any deceased person, made as party defendant to such action as hereinbefore provided may set forth in his answer duly verified by oath his claim against such deceased, and if the amount and validity of such claim be established upon the trial and it be also established that the estate of said deceased has never been administered and that the premises involved in the action are subject to the payment of such claims the said claimant may have judgment in the action for the amount of his claim and taxable costs against the premises involved in the action and unless the same shall be paid by the plaintiff or some other party to the action having the right to pay the same within such time as shall be prescribed by the judgment of the court, the said premises may be sold to pay the same upon the notice and in the manner provided by law for sales of real property on execution.

§ 9. WHEN DEFENDANT PERMITTED TO DEFEND BOND JUDGMENT.] The court may, in its discretion, and upon such terms as may be just, at any time within two years after the entry of judgment, relieve a defendant in such action from the judgment if taken against him through his mistake, inadvertence, surprise or excusable neglect, and allow such party to defend the action, but the defense, if successful, shall be without prejudice to the rights of a purchaser in good faith of the premises from the said plaintiff after the entry of such judgment, and before the making of the order permitting such defendant to defend. Before the entry of judgment in such action, the plaintiff must execute a bond of indemnity to the defendants in the said action who shall be served by publication, with sufficient surety to be approved by the court, in such sum as the court shall direct, conditioned that if any defendant shall be permitted to defend after judgment, as herein provided and such defense shall be successful, that the plaintiff will pay to such defendant the value of his interest in said premises, and his costs of defending the action.

§ 10. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 11. EMERGENCY.] *Whereas*, an emergency exists in that there is now no adequate law on the subject matter of this act, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

REFORM SCHOOL.

CHAPTER 195.

(S. B. 81.)

PROVIDING FOR THE COMMITMENT TO AND DETENTION IN THE REFORM SCHOOL.

AN ACT to amend section 16 of the Revised Probate Code of 1903 and sections 709, 710 and 715 of the Revised Code of criminal Procedure of 1903 providing for the commitment to and detention in the reform school.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That section 16 of the revised probate code of 1903 be and the same is hereby amended to read as follows:

Section 16. In all counties having a population of less than twenty thousand the county court shall have exclusive original jurisdiction in the matters of probate and settlement of estates of deceased persons, guardianship of minors, insane or incompetent persons, and in proceedings by executors, administrators and guardians for the sale or incumbrance of real and personal property for the purposes authorized by law, and such other powers as are prescribed by law, including all probate matters; *Provided, however,* that county courts in such counties shall not have jurisdiction in civil or criminal actions or proceedings until it is ascertained and determined in the manner provided by law for determining population of counties for the purpose of fixing the salaries of county officers that they have reached a population of twenty thousand or over and shall be governed by such procedure as is prescribed by law for the courts when exercising such limited jurisdiction; *provided,* that all county courts, shall have jurisdiction in all actions and proceedings for commitment of boys or girls to the reform school.

§ 2. AMENDMENT.] That sections 709, 710 and 715 of the revised code of criminal procedure be and the same are hereby amended to read as follows:

Section 709. When a boy or girl, under the age of eighteen years, shall in any county court, or court of record, be found guilty of any crime excepting murder, the said court may, if in its opinion the accused is a proper subject therefor, instead of entering judgment, cause an order to be entered that said boy or girl be sent to the reform school pursuant to the provisions of this chapter, and a copy of said order duly certified by the clerk under the seal of said court, shall be sufficient warrant for carrying said boy or girl to the school and for his or her commitment to the custody of the superintendent thereof.

Section 710. When a boy or girl under the age of eighteen years shall be convicted before a justice of the peace, or other inferior court, of any crime, or of being a disorderly person, it shall be lawful for the magistrate before whom he or she may be convicted, to forthwith send such boy or girl, together with all papers in file in his office on the subject, under the control of some officer to a judge of the county court or court of record, who shall then issue an order to the parent or guardian of said boy or girl or such person as may have him or her in charge, or with whom he or she has last resided, or one known to be near to him or her, or if he or she be alone and friendless, then to such person as said judge may appoint to act as guardian for the purposes of the case, requiring him or her to appear at a time and place stated in said order, to show cause why said boy or girl should not be committed to the reform school for reformation and instruction.

Section 715. If any parent or guardian shall make complaint to a judge of a county court or a court of record that any boy or girl, the child or ward of such parent or guardian, is habitually vagrant or disorderly or incorrigible, it shall and may be lawful for said judge to issue a warrant, to have the sheriff or constable to cause said boy or girl to be brought before him at such time and place as he may appoint, when and where said judge shall examine the parties and if in his judgment the boy or girl is a fit subject for the reform school, he may issue an order, with the consent of said parent or guardian indorsed thereon, to be executed by the sheriff or constable, committing said boy or girl to the custody of the superintendent of said school for reformation and instruction till he shall attain the age of majority; *Provided*, that for the purposes of this act the word "majority" in sections 715, 716 and 717 shall be construed to mean twenty-one years in the case of both male and female. *Provided further*, that security for the payment of the expenses of said complaint, commitment and carrying such boy or girl to the reform school and the expenses of board at such school may, in the discretion of said judge, be required of said parent or guardian.

§ 3. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 13, 1903.

CHAPTER 196.

(S. B. 150.)

RELATING TO REFORM SCHOOL.

AN ACT to authorize the state board of charities and corrections to sell and convey certain lands belonging to the reform school of the state of South Dakota and to buy other lands for the benefit of the reform school.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. POWER OF BOARD OF CHARITIES AND CORRECTIONS.] The State board of charities and corrections of the State of South Dakota shall have power to sell and convey to the highest bidder the following described lands in Aurora county, South Dakota, formerly known as a part of the Taylor lands and now belonging to the State Reform School, to-wit: The north half of the southwest quarter of section twenty-three and the north-east quarter of the southwest quarter and the north half of the southeast quarter of section twenty-two in township one hundred and three, north, range sixty-four west of the fifth principal meridian.

§ 2. MAY PURCHASE LANDS.] The state board of charities and corrections shall have power and are hereby authorized to purchase for the benefit of the State Reform School out of the proceeds of the sale of the aforesaid lands, such lands as they may deem advisable that are located adjacent to or conveniently accessible to the tracts of land now known as the Reform School farm.

§ 3. SHALL NOT INCUR INDEBTEDNESS.] That said board of charities and corrections shall not incur any indebtedness to the state in the purchase of lands as aforesaid, and shall not purchase lands that shall cost a sum in excess of the amount received from the sale of lands herein authorized, and any unexpended balance of funds shall be by said board of charities and corrections, deposited in the state treasury to the credit of the local and endowment fund of the State Reform School.

§ 4. REPORT.] The Board of Charities and Corrections shall as soon as the transactions herein authorized are completed make a detailed report to the governor of all their proceedings under this act.

§ 5. EMERGENCY.] *Whereas*, there is now no provision of law authorizing the acts above provided for and as it may be desirable that if the sale and purchase of lands herein authorized be made that it be made before the season of putting in farm crops; therefore, an emergency is declared to exist and this act shall take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF STATE: The foregoing act, having been presented to the governor of this state for his approval, and not having been returned by him to the House of the Legislature in which it originated, or to the secretary of state with his objections, within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

REGENTS OF EDUCATION.

CHAPTER 197.

(H. B. 127.)

RELATING TO COMPENSATION AND EXPENSES OF REGENTS OF EDUCATION.

AN ACT entitled an act to amend sections 223 and 224 of article 4, chapter 4, of the political code of the state of South Dakota, revision of 1903, relating to compensation and expenses of the board of regents of education and the secretary and stenographer thereof, and appropriation therefor.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 223 of Article 4, Chapter 4, of the Political Code of the State of South Dakota, Revision of 1903, be and the same is hereby amended so as to read as follows:

Section 223. APPROPRIATION.] The regents of education shall each receive an annual salary of one thousand dollars (\$1000), and their actual and necessary expenses while engaged in the performance of their official duties.

§ 2. That section 224 of article 4, chapter 4, of the political code of the State of South Dakota, revision of 1903, be and the same is hereby amended so as to read as follows:

Section 224. APPROPRIATION.] In the general appropriation for state purposes the sum of one thousand five hundred (\$1,500) dollars, or so much thereof as may be needed, shall be provided each year for the expenses of the regents of education. Said general appropriation shall also provide one thousand (\$1000) dollars each year for the salary of the secretary and stenographer of the regents of education, and the actual and necessary expenses and disbursements of said secretary.

§ 3. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 18, 1903.

CHAPTER 198.

(S. B. 228.)

RELATING TO THE BOARD OF REGENTS.

AN ACT to empower the board of regents to expend money to protect buildings from fire during the erection thereof.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. BOARD AUTHORIZED TO INSURE BUILDINGS UNDER CONSTRUCTION.] The State Board of Regents is hereby authorized and empowered to expend from any appropriation of money for the construction of any public building that may lawfully be constructed under their supervision or from any appropriation made for such purpose, sufficient funds to purchase and secure such protection from loss by fire during the erection of such building as may be proper in the judgment of said board.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] *Whereas*, there is no sufficient law upon the subject of this act, an emergency exists and is hereby declared to exist and this act shall be in force and effect from and after its passage and approval.

Approved March 11. 1903.

REPEALS.

CHAPTER 199.

(S. B. 90.)

LAWS REPEALED.

AN ACT to repeal portions of the former codes of the State of South Dakota known as the revised code of 1877 of the Territory of Dakota and as found in the compiled laws published in 1887 and certain amendments thereto and in the session laws of the Territory of Dakota and of the State of South Dakota from 1879 to 1901, both inclusive, all of which become obsolete or inoperative

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by the adoption of the political code, the civil code, the code of civil procedure, the justices' code the probate code, the penal code and the code of criminal procedure at the present session of the state legislature, and containing certain reservations, limitations and saving provisions from such repeal.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REPEAL.] That the following acts and parts of acts of the legislative assembly of the Territory of Dakota be, and the same are hereby repealed:

Chapters 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 20 21 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 46, 47, 48, 49, 50, of the Political Code of 1877.

From Section 1 to 2133, inclusive, of the Civil Code of 1877.

From Section 1 to 754, inclusive of the Code of Civil Procedure of 1877; also Section 1 to 23, inclusive of Chapter 39, of said Code of Civil Procedure of 1877.

From Section 1 to 390, inclusive of the Probate Code of 1877.

Sections 1 to 142 inclusive, and Chapter 3, Section 1 to 6, inclusive, of the Justices' Code of 1877.

Section 1 to 793 inclusive and chapter 59 sections 1 to 3 inclusive, Chapter 60, Sections 1 to 7 inclusive, of the Penal Code of 1877.

Chapter 1 to 17, both inclusive, Section 1 to 690, both inclusive of the Code of Criminal Procedure of 1877.

Section 1 to 7857, both sections inclusive, of the Compiled Laws of 1887.

Chapters 1, 2, 5, 6, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 31, 32, 33, 35, 36, 37, 38, 41, 42, 43, 44 45, 46, 47, 48, 49, 50, 51, 52, 53, 56, 58, 59, of Territorial Session laws of 1879.

Chapters 1, 2, 4, 5, 12, 16, 18, 19, 21, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 54, 55, 57, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 99, 100, 101, 104, 106, 107, 108, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 129, 130, 131, 132, 134, 135, 136, 137, 139, 140, 142, of Territorial Session Laws of 1881.

Chapters 1, 5, 8, 9, 10, 11, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 76, 79, 80, 81, 82, 83, 84, 85, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98, 99, 102, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116. Special Laws, 19, 25, 26, 33, 34, 35, 37, 38, of Territorial Session Laws of 1883.

Chapters 1, 2, 3, 7, 8, 18, 19, 20, 21, 28, 29, 31, 32, 34, 35, 36, 37, 38 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 84, 85, 86, 87, 88, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128,

129, 130, 131, 134, 135, 136, 137, 138, 139. Section 3 of Chapter 141, and Chapters 142, 144, 145, 146, 147, 148, 149, 151. Sections 1 and 2, of supplement and Chapter 17, Special Laws of Territorial Session Laws of 1885.

Chapters 1, 2, 3, 6, 7, 8, 9, 10, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 61, 66, 67, 68, 69, 70, 71, 72, 73, 74, 80, 81, 82, 84, 97, 98, 99, 100, 104, 105, 106, 107, 108, 109, 110, 111, 116, 121, 122, 123, 124, 125, 130, 132, 133, 134, 135, 138, 139, 140, 141, 142, 143, 144, 145, 147, 150, 151, 152, 155, 156, 157, 158, 159, 161, 169, 170, 172, 173, 174, 187, 195, 202, 205, of Territorial Session Laws of 1887.

Chapters 1, 3, 4, 6, 7, 8, 15, 16, 17, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 38, 40, 41, 42, 43, 44, 48, 49, 50, 51, 52, 53, 59, 60, 61, 62, 66, 67, 68, 69, 70, 71, 81, 88, 93, 96, 97, 98, 99, 101, 103, 104, 106, 107, 109, 110, 111, 112, 113, 114, 117, 118, 120, 121, 122, 123, 124, 125, 126, 127, 128, 130, 131, 132, 133, of Territorial Session Laws of 1889.

§ 2. REPEAL.] That the following acts and parts of acts of the legislature of the State of South Dakota be and the same are hereby repealed:

Chapters 1, 2, 3, 4, 5, 6, 8, 9, 19, 20, 21, 22, 23, 24, 25, 28, 32, 33, 34, 35, 37, 38, 40, 41, 42, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98, 99, 100, 101, 102, 103, 104, 105, 107, 108, 109, 110, 111, 112, 113, 114, 116, 118, 119, 121, 122, 123, 124, 125, 127, 128, 130, 131, 133, 134, 135, 136, 137, 139, 140, 141, 143, 145, 146, 147, 149, 150, 151, 153, 154, of the Laws of 1890.

Chapters 2, 5, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 30, 32, 33, 34, 37, 38, 39, 40, 43, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96, 98, 99, 100, 102, 103, 104, 105, 106, 107, 108, 111, 112, 113, 114, 115, of the Laws of 1891.

Chapters 16, 17, 18, 19, 21, 22, 23, 24, 29, 30, 31, 32, 33, 35, 36, 40, 42, 43, 44, 45, 48, 49, 50, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 75, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132, 133, 134, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 169, 171, 172, 173, 174, 175, of the Laws of 1893.

Chapters 5, 22, 23, 24, 25, 26, 27, 30, 31, 33, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 127, 128, 129, 131, 132, 133, 134, 135, 136, 137, 138, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 162, 167, 168, 169, 171, 172, 173, 174, 177, 178, 179, 181, 182, 183, 185, 186, of the Laws of 1895.

Chapters 7, 8, 9, 28, 29, 30, 31, 32, 33, 34, 35, 36, 40, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 109, 110, 111, 114, 115, 116, 117, 118, 119, of the Laws of 1897.

Chapters 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58, 59, 61, 66, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 106, 107, 109, 110, 112, 113, 114, 115, 118, 119, 120, 121, 122, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, of the Laws of 1899.

Chapters 2, 7, 44, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 83, 84, 92, 93, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, section 2 of 130; 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 184, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 206, 207, 209, of the Laws of 1901.

§ 3. SAVING PROVISIONS FROM REPEAL.] The repeal of the several acts in this act enumerated shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal cause before said repeal, but all rights and liabilities under said acts shall continue and may be enforced in the same manner as if said repeal had not been made; nor shall said repeal in any manner affect the right to any office, or property, or other right, or change the term or tenure thereof.

§ 4. All offenses committed and all penalties or forfeitures incurred under any statute hereby repealed, prior to such repeal may be prosecuted and punished in the same manner and with the same effect as if said repeal had not been made.

§ 5. ACTS OF LIMITATION NOT AFFECTED.] All acts of limitation whether applicable to civil or criminal actions or for the recovery of penalties or forfeitures embraced in any of said codes, and covered by the repealing provisions of this act shall not be affected by such repeal, but all

civil and criminal actions, and all proceedings, for causes arising or acts done or committed, prior to said repeal, may be commenced and prosecuted within the same time as if said repeal had not been made.

§ 6. TAKE EFFECT—WHEN.] This act shall take effect and be in force from and after the first day of July, 1903, at twelve o'clock meridian of that day.

Approved February 25, 1903.

CHAPTER 200.

(S. B. 139.)

REPEALING SECTION 317 OF REVISED POLITICAL CODE, PROVIDING FOR THE PURCHASE OF GOODS AND SUPPLIES WITHIN THE STATE.

AN ACT to repeal section 317, article 1, chapter 5 of the revised political code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REPEAL.] That Section 317, Article 1, Chapter 5, of the Revised Political Code of 1903, is hereby repealed.

Approved March 10, 1903.

CHAPTER 201.

(H. B. 183.)

RELATING TO METHOD OF DETERMINING POPULATION.

AN ACT to repeal section three (3) of chapter 104 of the session laws of 1901, being section 684 of the revised political code of 1903, relating to method of determining population.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REPEAL.] That section three (3) of chapter 104 of the session laws of 1901, being section 684 of the revised political code of 1903, be and the same is hereby repealed.

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and

this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1903.

CHAPTER 202.

(S. B. 194.)

RELATING TO LOCATION OF MINING CLAIMS.

AN ACT to repeal subdivision number 7 of section number 2534 of the revised political code of 1903, relating to the location of mining claims.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. REPEAL.] That subdivision 7 of section 2534 of the revised political code of 1903, be and the same is hereby repealed.

§ 2. EMERGENCY.] The present law upon this subject being unnecessary and dangerous to property rights, an emergency is hereby declared to exist and this act shall therefore take effect and be in force, from and after its passage and approval.

Approved March 12, 1903.

REVISED CODE.

CHAPTER 203.

(H. B. 13.)

RELATING TO THE REVISED CODE.

AN ACT to provide for the completion for publication of the several codes passed at this session of the legislature, and for the preparation of a general index thereof, to be published with such codes, making provision for the expenses thereof, and appropriating the money to pay for the same.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DUTY OF COMMISSIONERS.] It is hereby made the duty of the commissioners heretofore appointed to revise and codify the laws of the State of South Dakota under the provisions of Chapter 183 of the Session

Laws of 1901, to supervise the correction of any verbal or typographical errors which have occurred in the preparation and printing of the several codes passed at this session of the legislature, and to prepare and submit to the contracting printer a general index to such codes, referring in such index to the sections, the proper codes by abbreviations and pages, to the end that a complete volume, to be known as the revised codes of 1903, with a well ordered index thereto, may be printed and bound, together with the constitution of the state, as amended to date, in one complete volume, as contemplated by the provisions of said Chapter 183.

§ 2. APPROPRIATION.] For the purpose of paying the expenses of such supervision and preparation of the index, including all the extra services performed by said commissioners in the preparation of said revised codes, in preparing the enactments putting said codes in force, in preparing the repealing acts and all other services, including the preparation of such index, there is appropriated the sum of sixty-five hundred (\$6500) dollars out of any money in the treasury not otherwise appropriated, which sum shall be paid to the said commissioners by the state treasurer upon the certificate of the governor when said services shall be completed, and this sum shall be in full for all expenses heretofore or hereafter incurred by said commissioners for expenses in the employment of stenographers and clerks heretofore or hereafter made by them, and for traveling expenses and railroad fare to attend the meetings of said commissioners.

§ 3. EMERGENCY.] There being necessity for the immediate preparation of said index, it is declared by this legislature that an emergency exists, and therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 13, 1903.

CHAPTER 204.

(S. B. 88.)

PROVIDING FOR THE PUBLICATION OF THE DIFFERENT CODES OF 1903 IN ONE VOLUME.

AN ACT providing for the publication in a volume of that portion of the enactments of this present session of the legislature, which are designated as the revised political code, revised civil code, revised code of civil procedure, revised justices' code, revised probate code, revised penal code and revised code of criminal procedure, together with the constitution of the State of South Dakota as amended.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That the revised political code, revised civil code, revised code of civil procedure, revised justices' code, revised probate code, revised pe-

nal code, and revised code of criminal procedure, together with the constitution of the State of South Dakota as amended since its adoption, be published and bound in one volume, under the provisions of the act of the legislature entitled an act to provide for revising and codifying the laws of the State of South Dakota, and for the printing, publishing and distribution of the same, and to appropriate money to carry out the provisions of this act, approved March 11, 1901, which provides for the appointment of a commission to revise the laws of the State of South Dakota, as such codes are enacted at this session of the legislature of South Dakota, and such codes must not be published otherwise as a part of the session laws of this session.

§ 2. No other enactments or papers of any kind, except such codes and the general index thereto, shall be bound therewith, but any provisions enacted at this session of the legislature, other than such codes, shall be printed and published in the usual published volume of session laws. The intent of this act being to constitute the volume containing such codes to be as little burdensome as possible.

§ 3. There being a necessity for the immediate printing and binding of these codes, it is declared by the legislature that an emergency exists therefor, and this act shall take effect from and after its passage and approval.

Approved February 17, 1903.

CHAPTER 205.

(S. B. 89.)

PROVIDING FOR PUTTING IN FORCE AND CONSTRUCTION RELATIVELY OF THE DIFFERENT CODES OF 1903. 104 W. W. 275

AN ACT providing for the putting in force and construction relatively of the different codes passed at the present session of the legislature.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. The several codes enacted by the present legislature of the state of South Dakota shall be known as the political code, the civil code, the code of civil procedure, the probate code, the justices' code the penal code and the code of criminal procedure, and by such titles may be referred to and amended, and in the publication and binding shall be arranged in the above order and the whole body of laws shall be designated as the revised codes of the State of South Dakota.

§ 2. For the purposes of construction, the several codes passed at the present session of the legislature of the State of South Dakota shall be held

and deemed to have been passed on the same day and as parts of the same statute. But if the provisions of any law passed at the present session of the legislature of the State of South Dakota contravenes or are inconsistent with the provisions of either of the codes, the provisions of such law shall prevail. 164 N.W. 275

§ 3. If the provisions of any code, title chapter or article conflict with or contravene the provisions of any other code, title, chapter or article the provisions of each code, title, chapter or article must prevail as to all matters and questions arising thereunder out of the same subject matter.

§ 4. This act shall take effect and be in force from and after the first day of July, 1903, at 12 o'clock meridian of that day.

Approved February 17, 1903.

SABBATH.

CHAPTER 206.

(H. B. 161.)

RELATING TO SABBATH BREAKING.

AN ACT to amend section 49 of chapter 4 of the revised penal code of 1903. relating to the penalty for sabbath breaking.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That section forty-nine of chapter 4 of the Revised Penal Code of 1903, be and the same is hereby amended to read as follows:

Section 49. AMENDMENT—SABBATH BREAKING—PENALTY] Every person guilty of Sabbath breaking is punishable by a fine of not more than ten dollars for each offense.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 6, 1903.

SALARIES.

CHAPTER 207.

(H. B. 270.)

121 N.W. 793,
127 N.W. 641

121 N.W. 793

REGULATING SALARIES OF REGISTERS OF DEEDS AND COUNTY AUDITORS.

AN ACT to amend section 894 of the revised political code of 1903, regulating salaries of registers of deeds and county auditors of the several counties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 894 of the Revised Political Code of 1903 be and the same is hereby amended to read as follows:

Section 894. SALARIES—HOW DETERMINED.] The salaries of registers of deeds and county auditors shall be regulated by the value of the property in their respective counties as fixed by the state board of equalization for the preceding year, as follows: They shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars; one mill on each dollar of all sums in excess of such last named sum and less than five hundred thousand dollars; one quarter of one mill on each dollar of all amounts in excess of said last named sum and less than one million five hundred thousand dollars; and one twenty-fifth of one mill on each dollar of all amounts in excess of said last named sum; *Provided*, that in counties having a population not exceeding fifteen hundred or less the salaries of registers of deeds and county auditors shall be six hundred dollars per annum, and such salary shall not in any county exceed one thousand two hundred dollars; *Provided, further*, that in counties having a population of twelve thousand or over the board of county commissioners may in their discretion allow a salary not exceeding fifteen hundred dollars per annum to the county auditor only which salary shall be paid quarterly by warrants on the special salary fund or on the county general fund.

Approved March 11, 1903.

CHAPTER 208.

(S. B. 185.)

Am Ch 119, Laws 1909

RELATING TO SALARIES OF COUNTY JUDGES.

AN ACT establishing a scale of salaries of county judges, according to the population of their respective counties.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SALARY—HOW DETERMINED.] The salary of the Judges of the several County Courts shall be scaled as follows:

In all counties having a population of two thousand or less, two hundred dollars per annum; in all counties having a population of over two thousand and not exceeding three thousand, three hundred dollars per annum; in all counties having a population of more than three thousand and not exceeding four thousand, four hundred dollars per annum; in all counties having a population of more than four thousand and not exceeding six thousand, five hundred dollars per annum; in all counties having a population of more than six thousand and not exceeding nine thousand, six hundred dollars per annum; in all counties having a population of more than nine thousand, and not exceeding twelve thousand, seven hundred dollars per annum; in all counties having a population of more than twelve thousand and not exceeding fifteen thousand, eight hundred dollars per annum; in all counties having a population of more than fifteen thousand and not exceeding twenty thousand, nine hundred dollars per annum; in all counties having a population of more than twenty thousand the sum of two thousand dollars per annum.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act, are hereby repealed.

Approved March 10, 1903.

CHAPTER 209.

(S. B. 198.)

RELATING TO SALARIES OF COUNTY ASSESSORS.

AN ACT to amend section 2087 of article 4 of the revised political code of 1903, relating to salaries of county assessors.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2087 of the revised political code of 1903 be and the same is hereby amended by adding thereto the following provision:

FOLIO—18.

Am Ch 70, 1907

Provided, that in counties whose area exceed forty-five congressional townships the assessor shall be allowed in the discretion of the County Commissioners in addition hereto a reasonable sum for his expenses incurred in making the assessment herein required; *provided*, however, he shall in no event receive to exceed five dollars per day.

§ 2. EMERGENCY.] Whereas, an emergency is declared to exist, this act shall take effect and be in force from and after its passage and approval,

Approved March 5, 1903.

SCALES.

CHAPTER 210.

(H. B. 115.)

PROVIDING FOR THE INSPECTION OF SCALES.

An Act to provide for the inspection and testing of scales over which grain, coal, live stock, produce or merchandise of any kind is bought or sold in quantities of over five hundred pounds, and for the appointment of inspectors of scales.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. SCALES MUST BE INSPECTED.] All scales over which any grain, live stock, produce, coal or merchandise of any kind is weighed, in quantities over five hundred (500) pounds either in buying or selling, receiving or shipping, may be inspected as provided in this act, at least once in each month of each year and oftener if occasion requires, as provided for in this act.

§ 2. INSPECTOR OF SCALES TO BE APPOINTED—DUTY OF.] The mayor in each city, or the president of the board of trustees or township board in organized townships and board of county commissioners for unorganized townships in any [in]corporated town or village, organized or unorganized townships, may, if deemed necessary, appoint a suitable person, resident of said city or town, organized or unorganized townships as city or town, organized or unorganized township inspector of scales whose term of office shall run with and be concurrent with the term of office of said mayor or president of the board of trustees, and said appointment shall be subject to confirmation by the city council of said city or board of trustees of said town. It shall be the duty of said inspector of scales to examine and test each and every scale within the corporate

limits of his city or town on which any articles of commerce are weighed in quantities over five hundred (500) pounds when bought or sold, at least once in each calendar month and he shall affix to said scale the day and date of each test by affixing a brand or device, viz: "examined, tested and found correct (or incorrect) as the case may be, this day of

Inspector.
With his official signature on said brand or device. And he shall keep a record of the day and date and the name and owner of the scale or scales so inspected and in case he finds the scales incorrect, he shall give notice to the person owning or operating said scale, and said scale shall not be used until it is satisfactorily adjusted.

§ 3. The owner or person operating said scale or scales where the same are found incorrect and so branded shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a penalty in the discretion of the court in any sum not exceeding one hundred dollars.

§ 4. SERVICE OF PROCESS—HOW MADE.] For the purpose of service of any process or notice as provided for in this act, any notice or process shall be deemed served on any foreign corporation, railroad corporation or non-resident of the city by leaving a copy of the same with the person in charge of the scale or scales or with the resident agent of the said corporation or railroad corporation or non-resident in said city or town.

§ 5. POWER OF INSPECTOR.] The city or town scale inspector shall have the right to inspect and test any and all scales within his city or town limits on which any article of commerce is weighed in quantity over five hundred (500) pounds, either in buying or selling.

§ 6. BOND OF.] Before entering upon the discharge of his duties, the city or town scale inspector shall give a bond to the State of South Dakota in the sum of five hundred dollars (\$500.00) for the faithful discharge of his duties.

§ 7. COMPENSATION OF.] The compensation of inspector of scales shall be fixed by the city council or board of trustees, township board in organized townships and boards of county commissioners for unorganized townships and shall be paid out of the city, township or county treasury.

§ 8. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 11, 1903.

SCHOOL FUNDS.

CHAPTER 211.

(H. B. 9.)

RELATING TO INVESTMENT OF PERMANENT SCHOOL FUNDS.

AN ACT to amend section 402 of article 2 of chapter 6, of the revised political code of 1903, being chapter 178 of the session laws of 1901, relating to the investment of the permanent school funds.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 402 of Article 2, of Chapter 6 of the Revised political code of 1903, being chapter 178 of the session laws of 1901, be and the same is hereby amended so as to read as follows:

SECTION 402. AMENDMENT.] Each county shall loan or invest and keep invested all the funds so received from the commissioner of school and public lands, as aforesaid, in bonds of school corporations, state, county and municipal bonds, or in first mortgages upon good, improved farm lands, within their limits respectively, but no farm loans shall exceed one thousand dollars to any one person, firm or corporation, nor shall it exceed one-half of the full value of the lands as assessed for taxation. All of said bonds and loans shall draw interest at the rate of five per cent per annum and shall be payable semi-annually on the first day of January and July. All mortgages shall be made in the name of the state as mortgagee.

§ 3. EMERGENCY.] *Whereas*, an emergency is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved January 22, 1903.

SEDUCTION.

CHAPTER 212.

(S. B. 123.)

RELATING TO SEDUCTION.

AN ACT entitled an act relating to seduction, and giving a right of action to persons injured thereby against the wrongdoer.

Be it Enacted by the Legislature of the State of South Dakota :

§ 1. ACTION MAY BE MAINTAINED AGAINST SEDUCER.] In all cases of seduction, whether the act complained of be committed in this or any other state and prior or subsequent to the taking effect of this act, the father, mother, sisters, brothers and any person sustaining the relation of in loco parentis may maintain an action against the seducer for the recovery of all medical attendance, nursing, and other expenses, incident upon the subsequent illness and confinement of the person seduced, and in all such actions the plaintiff shall recover not only actual but exemplary damages. *Provided*, however, that the commencement of suit and recovery by one of such persons shall be a bar to a suit brought by another.

§ 2. UNMARRIED WOMAN MAY MAINTAIN ACTION..] In all cases of seduction, whether the act complained of be committed in this or any other state, and prior or subsequent to the taking effect of this act, an unmarried woman may maintain an action against her seducer for all actual damages sustained and for exemplary damages.

§ 3. WIFE MAY MAINTAIN AN ACTION AGAINST HUSBAND—WHEN.] In all cases of marriage between the parties to the seduction, where it shall appear that the seducer has abandoned his wife or family, or entered into such marriage relation for the purpose of avoiding a prosecution, under the laws of the state where the seduction took place, the wife may maintain an action against her husband for all damages sustained by her as well as exemplary damages. In all actions, brought under the provisions of this section, the plaintiff shall have the right to recover for the support, education and maintenance of her child.

§ 4. WIFE COMPETENT WITNESS AGAINST HUSBAND—WHEN.] In all actions brought under the provisions of this act, where it shall appear that the defendant married the person seduced, the wife shall be a competent witness as against her husband.

EMERGENCY.] *Whereas*, there is no adequate provision in the statutes of this state relating to seduction, therefore an emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage and approval.

§ 5. No property except such made absolutely exempt by the existing laws of this state shall be exempt against attachment, mesne, process or execution issued in such action.

Approved, Feb. 25, 1903.

SEWERAGE SYSTEM.

See ch 323-1913

See ch 110 Sows' 09 CHAPTER 213. 166 new 164
(S. B. 87.) 162 new 158

RELATING TO SEWERAGE SYSTEMS.

AN ACT to provide for the construction of a system of sewerage in cities and for the assessment and collection of the costs thereof.

Be it Enacted by the Legislature of the State of South Dakota:

5 new 15 § 1. DISTRICTS AND PLANS.] Any city shall have full power to construct systems of sewerage in such manner and under such regulations as the city council shall deem expedient, but shall not enter upon such construction until such city shall have been divided into sewerage districts, nor until a plan shall have been adopted therefor. *Provided*, that it shall not be necessary before any part of the same is constructed that the plan shall be determined upon in all of its details but it shall be settled so far as relates to that portion upon which the construction is commenced. And, *provided further*, that no measures shall be taken for the construction of such systems of sewerage except upon the affirmative vote of at least two-thirds of all the aldermen elect.

§ 2. DIAGRAMS.] The city council shall cause diagrams of the plans of the sewerage for each district to be prepared, showing the lots and parcels of land, the main sewers, minor sewers, manholes, catch basins, and all other matters pertaining to the system.

§ 3. NOTICE OF HEARING.] On the completion of such diagram notice shall be given in the official newspaper of the city, substantially in the following form: Notice is hereby given that a plan for sewerage for the district bounded as follows has been prepared and is now open for inspection at the office of the city auditor. All persons owning or interested in any real estate in such district are entitled to examine the same at any time within ten days after the first publication of this notice, and to file objections to said plans. On the day of, 190....., the City council will be in session at

the council chamber to consider objections, that may have been filed, and all persons desiring to be heard before the city council can then be heard.
 Dated Mayor.

Countersigned City Auditor.

The day for the hearing specified shall be within ten days after the last publication of said notice; said notice shall be published at least once each week for two consecutive weeks.

§ 4. ADOPTION OF PLANS.] On the day specified for said hearing the city council shall take up and consider all objections to the plans as proposed. When the city council shall have concluded said hearing they may approve the plans proposed, or change it in such manner as they may think proper, and approve as changed or modified by them, or may reject the plan and direct a new plan to be prepared, in which case the same proceeding shall be had as before. *Provided*, that if the city council shall have directed the preparation of plans for sewerage before the passage of this act, and plans shall have been prepared in accordance with such direction, the like proceedings may be had for the adoption of the same with the same force and effect as if the same had been prepared after this act shall have taken effect.

§ 5. DIAGRAM FILED.] When the plan for any sewer district is finally determined, a complete diagram of the same shall be prepared and filed in the office of the city auditor.

§ 6. RESOLUTION TO CONSTRUCT.] Whenever any city which shall have adopted plans for sewerage as herein provided, shall deem it necessary to construct any sewer or sewers, the city council shall, by resolution, declare the necessity therefor, and shall state the location and designate all terminal points thereof, or the district. if all sewers in the plan of the same are to be constructed at one time, and notice for ten days of the passage of such resolution shall be given by publication once in each week, for two successive weeks, in the official newspaper of the city: such notice shall state the time and place when and where the property owners along the line of said proposed sewer or sewers can make objections to the construction thereof. From the time of the adoption of such resolution, the city council shall have jurisdiction to make the improvements therein specified, and assess the cost thereof upon the property benefitted thereby, as hereinafter provided.

§ 7. CONTRACT.] All sewers constructed under the provisions of this act shall be let by contract to the lowest responsible and satisfactory bidder. The city council shall advertise for and receive bids to do the work so ordered, having first procured to be carefully prepared and placed on file in the office of the city engineer for the examination and guidance of bidders, plans and specifications describing the work to be done, and the kinds and qualities of material to be used. *Provided*, however that the city council shall have the right to reject any and all bids, and re-advertise for proposals, if none of the bids are satisfactory, or if they believe any agreement has been entered into between the bidders to prevent competition; and, *provided further*, that no contract shall be binding

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until the form thereof shall have been approved by the city attorney, and the same shall have been signed by the mayor and countersigned by the city auditor.

§ 8. PAYMENT IN ASSESSMENT CERTIFICATES.] The contract may, at the option of the city, require the contractor to receive as payment for so much of the work as shall be assessed against the lots benefitted, interest bearing certificates of assessment against such lots respectively, and the residue of such contract, if any, shall be paid out of the proceeds of a special sewerage tax to be levied upon real estate within the sewerage district by the city council as hereinafter provided.

§ 9. ASSESSMENT SUB-DISTRICTS.] For the purpose of making and equalizing the special assessment for sewerage, the city council shall by ordinance subdivide any sewerage district in which it is proposed to construct under one contract a system of sewers, into assessment sub-districts and define the boundaries of each. Said sub-districts shall be formed by including in each those lots, parts of lots, and parcels of land, upon which the city council shall determine and find that the benefits of such sewerage are uniform and equal. *Provided*, that it shall not be necessary to make the divisions specified in this section if the city council shall determine that the benefits of sewerage will be uniform and equal throughout the entire sewerage district.

§ 10. SEWERS PREVIOUSLY CONSTRUCTED—HOW ASSESSED.] If, by or under the direction of the city there has been before or after the passage of this act, and before any contract therefor as herein provided, constructed any sewer or part of sewer or system of sewerage, in any district or part of a district within said city, in conformity with the plans of such sewerage as already adopted or hereafter adopted, then the cost of the same, estimated upon the basis of the contract price for constructing sewers similar to those already constructed, and which has not already been assessed upon private property, may be included in said assessment, and the lots and parts of lots and parcels of land benefitted thereby may be assessed for the same, in the same manner, and with like force and effect, as though said sewers or parts of sewers or system of sewerage or part of system of sewerage, had been constructed under a contract for the same as herein provided.

§ 11. ESTIMATE FOR ASSESSMENT.] Whenever any contract for the construction of any sewer or system of sewerage under the provisions of this act shall have been entered into, the city engineer, city attorney, and city auditor, as assessors, shall forthwith proceed to make an estimate for a special assessment therefor upon the several lots, parts of lots and parcels of land benefitted thereby and report to the city council the following facts touching said improvement.

1. The total cost of said sewer or sewers calculated upon the contract price.
2. The total length of the sewer or sewers covered by the contract.
3. The total number of feet frontage of property abutting upon

the street or streets in which said sewer or sewers are contracted to be constructed.

4. The full description, together with the owners' name, of each lot, part of lot and parcel of land, and the number of feet of frontage of the same after deductions made, bordering upon the street or streets in which such sewer or sewers are to be constructed.

5. The amount to be assessed upon each lot, part of lot and parcel of land so situated for the construction of such sewer or sewers.

6. The cost of such system of sewerage for any sewerage district shall be apportioned among the several assessment sub-districts as established by the city council, and the assessment upon each lot, part of lot, and parcel of land in each of the several assessment sub-districts shall be at a uniform rate per front foot. The cost of any sewer or sewers being for less than an entire sewerage district under one contract shall be apportioned among the lots benefitted thereby at a uniform rate per front foot without regard to the lines of assessment sub-districts provided for in this act. The total benefit of a sewer or system of sewers constructed under the provisions of this act shall be deemed to be the contract cost of the same.

§ 12. APPROVAL OF ESTIMATE.] Upon the filing of the report provided for in the last preceding section, the city council shall give twenty days' notice by publication in the official newspaper of the city once in each week for three successive weeks, the first publication to be not less than twenty days before the meeting next herein mentioned, of the filing of such report, and the time and place, when and where a hearing can be had before a committee to be appointed to consider such report; and such committee shall make a report to the city council of such city, recommending the adoption or alteration of such report. Any person feeling aggrieved by the report of the assessors shall have the right to appear before such committee and the city council of such city and make objections thereto, and shall be accorded a hearing thereon. The city council may alter, modify or amend said estimate. *Provided*, that the estimate for an assessment upon any lot, part of lot or parcel of land shall not be increased or diminished by the city council, unless they shall first determine that the estimate upon all the lots, parts of lots and parcels of land within the assessment sub-district embracing such lot, part of lot or parcel of land shall be increased or diminished. And *provided further*, that the whole amount of the estimate under consideration shall not be increased or diminished by the city council but all changes made by them in said estimate, shall be for the purpose of equalizing said estimate as between the several assessment sub-districts embraced therein.

§ 13.. ASSESSMENT.] When the said estimate shall have been fully equalized by the city council, it shall be adopted and approved by resolution by a majority vote of the aldermen elect. The city auditor and city attorney shall thereupon prepare an assessment roll based upon said equalized estimate, in the form of an ordinance, and the city council of such city shall by ordinance assess against the several lots and parcels of land, the several amounts which shall be assessed for and on account of such

improvement, which said amounts shall bear interest at the rate of six per cent per annum from the time of the finding of the completion of said improvement by the city council as mentioned in section 18 of this act,

§ 14. PAYMENT BY INSTALLMENT.] Should any one of such assessments exceed the sum of fifty dollars, the owner of the lot or parcel of land against which said assessment is made, may, if he within thirty days after the making of such assessment, and the taking effect of said ordinance, shall promise and agree in writing to be filed with the city auditor of such city, in consideration of the right to pay his or their assessment or respective assessments, in installments, that he or they will not make any objections to the illegality or irregularity as to their respective assessments, and will pay the same with interest thereon at the rate of not exceeding six per cent per annum, as shall by ordinance or resolution of the city council of such city be prescribed and required, he or they shall have the benefit of paying said assessments in ten annual installments, as herein provided.

§ 15. PAYMENT WITHOUT INSTALLMENTS.] The owner of any lot or parcel of land, who has been assessed more than the sum of fifty dollars thereon for the cost of such improvement, who will not promise and agree in writing as provided in the preceding section, and all owners of lots or parcels of land whereon assessments of less than fifty dollars have been made against any one lot or parcel, shall be required to pay his or their assessment in full when made, and the same may be collected according to the provisions of this act, or the contractor or his assigns may foreclose such assessment as a mortgage is foreclosed in any court of competent jurisdiction, and shall recover in addition to the amount of such assessment, with interest, all costs and a reasonable attorneys' fee.

§ 16. PAYMENT—HOW APPLIED.] Whenever any payment shall be made upon any such assessments, it shall be the duty of the county treasurer, contractor, or owner of the assessments, certificates, or installments, of assessments, as herein provided, receiving such payment to enter upon the proper record the receipt of such money, and such receipt shall be a discharge of the lien of such assessment to the extent of such payment, and upon the payment of assessment certificates, as issued under this act, they shall be surrendered to and cancelled by the city treasurer.

§ 17. LIEN OF ASSESSMENTS.] All special assessments levied upon real estate in any such city, under the provisions of this act, are hereby made a perpetual lien thereupon from the date on which the same were levied against all persons or bodies corporate, except the United States and this state. Any person or bodies corporate purchasing any real estate for any assessment levied by the authorities of any city under the provisions of this act, shall, after the lapse of three years from the date of recording the treasurer's deed therefor, acquire and have a complete title thereto, and thereafter all persons shall be barred from commencing or sustaining any action in any court of this state to recover possession of the same.

§ 18. ACCEPTANCE OF THE WORK.] When all the work embraced in any contract for sewerage shall have been fully completed according to the plans and specifications, the city engineer shall certify the facts in relation

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thereto to the city council; upon the filing of such certificate, notice shall be given to the property owners interested in said improvement, and upon whose land assessment therefor has been made of the filing of said certificate, and of the time and place when and where the city council will meet to hear objections to the acceptance of the same; said notice shall be published at least once in each week for two successive weeks in the official newspaper of the city, and said meeting shall be held not less than ten days after the first publication of said notice. Upon the hearing any and all objections to the work done under said contract, relating to materials, construction or compliance with the plans and specifications for the same, made in writing by any property owner interested therein and verified by his affidavit, substantially in the form for the affidavit of verification of a pleading in a civil action, shall be heard by the city council. *Provided* that if the city council shall make any order as hereinafter provided for the completion of the work, having reference to the correction of any defects therein, founded upon such written objection, and it shall be found upon investigation that the said objections were not in fact well founded, and no substantial defect shall be found to exist, then the person making such objections shall be liable to the city and to the contractor for all damages occasioned by such order of the city council so made, which may be recovered in a civil action. If after said hearing the city council shall be satisfied that said work has been completed in accordance with the plans and specifications, as certified by the city engineer, they shall accept the same and make final payment therefor as required by the contract. If after said hearing the city council shall be satisfied that said work has not been fully completed according to the plans and specifications, they shall make such order as they may deem proper, requiring the contractor to complete the same within a time to be limited by such order. If the contractor shall fail or refuse to comply with such order, the city council may cause such work as is necessary to complete the same to be done by contract or by or under the direction of such officers or department of the city as it shall direct. When the work is so completed to the satisfaction of the city council, it shall then accept the work, and deduct from the original contract price the cost of all work, not done by the original contractor in the completion of the same, and may, order the same to be paid with certificates of assessment as herein provided, or out of any moneys deposited by the original contractor in the city treasury as hereinafter provided, or both as it shall deem proper. The acts of the city council done in pursuance of the provisions of this section shall be conclusive and binding upon the contractor, and all property owners interested in said assessment, except in case of fraud. And the acceptance of the work and issuance of the certificates of assessment to the contractor shall, after the period of six months from the date of such acceptance, be conclusive evidence of the regularity of all the proceedings in letting the contract, acceptance of work, and making the special assessment as herein provided.

§ 19. COLLECTION OF INSTALLMENTS.] The city auditor shall annually, on or before the first day of October in each year, make out and cer-

tify to the county auditor of the county in which said city is situated, a list of all lots, parts of lots and parcels of land, together with the name of the owner to whom they are assessed for sewerage purposes under the provisions of this act, and the amount of the annual installments of the special assessments for sewerage next coming due, the total amount remaining unpaid, and the date from which interest thereon at six per cent per annum is to be calculated, and the same shall be placed by the county auditor upon the tax roll and duplicate, and the installment and interest upon the total amount then unpaid shall be collected in the same manner as other taxes are collectible, and the law governing the collection of taxes so far as the same is applicable, shall regulate and govern the collection of such assessments, and the proceeds therefrom shall constitute a special fund for the payment of the cost of said sewerage and the assessment certificates issued therefor and for no other purpose. The amount of each installment shall be ten per cent of the assessment against any lot or parcel of land, due and payable as follows: Ten per cent for each successive year for ten years, and the interest at the rate of six per cent thereon, payable annually, which shall be calculated from the time of the final acceptance of the work by the city council.

§ 20. COLLECTION OF ASSESSMENTS NOT PAID BY INSTALLMENTS.] The City auditor shall forthwith, upon the final completion and acceptance of the work for which the assessment herein provided shall have been levied, certify to the county auditor of the county in which such city is situated, a list of all lots, parts of lots and parcels of land together with the name of the owner to whom they are assessed for sewerage purposes under the provisions of this act, the assessment for which shall not be payable in installments as provided in this act, and the amount of such special assessment for sewerage together with the date from which interest thereon at the rate of six per cent per annum is to be calculated, and the same, if received by said county auditor prior to the completion of the annual tax roll and duplicate shall be placed upon said tax roll and collected in the same manner as other taxes are collectible. If the same be not received by the county auditor before the completion of the annual tax roll and duplicate, the county auditor shall certify and file the same with the county treasurer for collection in the same manner and with like force and effect as though the same had been placed upon the tax roll and duplicate.

§ 21. CONTRACTOR ENTITLED TO COMPENSATION—WHEN.] In all cases the work done under the provisions of this act shall be subject to the superintendence and direction of the city council, or such committee thereof, or officers of the city as the city council shall determine and no contractor shall be entitled to recover compensation for any work executed by him in any form of action, unless such work shall have been approved by the city council as herein provided, except as provided in the next section for partial payments.

§ 22. ESTIMATES—PARTIAL PAYMENTS.] Whenever a system or part of a system of sewerage requiring the construction of sewers in more than one street or alley, shall be let under one contract, the contract may provide that whenever a part of the work constituting not less than

one block has been completed according to the plans and specifications, that the city engineer may, upon the demand of the contractor, certify the facts to the city council. If the city council shall accept the portion of the work so certified they may order to be delivered to the contractor, or his assigns, all the certificates of special assessment upon the property abutting upon the work so completed and accepted. *Provided*, the city council shall require the contractor to deposit with the city treasurer an amount equal to the difference between the face value of such certificates and seventy-five per cent of the contract price of the work so estimated, to be held by the said city treasurer until the final completion and acceptance of all the work done under the same contract.

§ 23. ASSESSMENT UPON CORNER LOTS.] Corner lots not subdivided in ownership and subdivisions of corner lots constituting the actual corner lots subdivided in ownership, shall be entitled to a deduction in making assessments for sewerage purposes of two-thirds from the longest street line of such corner lots or corner subdivisions thereof, or, in case of equal street lines thereof, in the assessment of that line constituting a portion of the longest street line of the original lot.

§ 24. LOTS AND PARCELS.—OWNER.] The term "lot" as used in this act shall be deemed to be any tract of land described as a lot in the recorded plat of the city or any addition or subdivision thereof. Any block of land not subdivided into lots or in ownership shall be assessed for sewerage purposes to the center line thereof from the front upon which the assessment is calculated. Unplatted lands shall be assessed to a depth of one hundred and fifty feet, from the street line upon which the assessment is calculated. *Provided*, that if the owner of the frontage own less than one hundred and fifty feet in depth, the assessment shall cover no more than the land belonging to the owner of such frontage. The word "owner" as used in this act, shall be construed to mean the person or corporation named as grantee in the latest deed of conveyance recorded in the office of the register of deeds of the county in which such city is located, or his or their heirs or assigns. 1417m 386

§ 25. ACTIONS AND REMEDIES.] No injunction to restrain proceedings, under the provisions of this act, shall be maintained unless the same shall be issued prior to making the contract herein provided for. In any action to resist the payment of any assessment or any part thereof made under the provisions of this act, the court shall disregard any and all irregularities or defects, whether in the proceedings of the city council or any officer of the corporation, or any plans or estimates and the acceptance of the work by the city council upon the certificate of the city engineer shall be prima facie evidence that the contract has been complied with and the assessment exists; but, if it be shown that there is any substantial defect in the improvement, or any fraud in the contract price of the work or materials, the court may order such deduction therefor from the cost of said improvements as shall be just, and such deduction shall be ratably from the assessments on all the property abutting upon said improvement, and the court may make such order in regard to the costs, 1627m 151

where such substantial defect or fraud is found, as to the court shall seem proper.

§ 26. SPECIAL SEWERAGE TAX.] For the purpose of defraying the expense of engineering and superintendence in the construction of any sewer or sewers under the provisions of this act, and the expense of making the special assessment therefor, including the cost of abstracts of title and publication of notices and ordinances, and the expense of maintaining, repairing and cleaning of sewers constructed under the provisions of this act, the city council shall have the power at the time of making the annual levy of taxes for the ensuing year to levy upon the lots, parts of lots and parcels of land upon which a special assessment for sewerage under the provisions of this act has been made, a special sewerage tax of not exceeding five mills on the dollar of the valuation thereof for the then current year, which shall be collected in the same manner as general city taxes are collected.

§ 27. SEWER CONNECTIONS] The city council shall by ordinance prescribe the regulations under which sewers and drains from private property may be connected with the sewers constructed under this act. Whenever the city shall order the paving or macadamizing of any street in which any sewer shall have been previously laid or constructed, they may also order the property owners along the line of said street to lay house drains from the main sewer in such street to the curb line on either side of the street at intervals not less than twenty feet along the whole length of such paved street, except at the street and alley crossings. Notice of such order shall be given to the owners or occupants of the property adjoining such paved street, by publication thereof for six days in the official newspaper of the city requiring them to do such work opposite their respective lots or parcels of land according to plans and specifications to be prepared and placed on file in the office of the city engineer, showing location, size and the kind and quality of the material of such lateral sewers or drains; and if such owner or occupant shall refuse or neglect to do the same before the paving or repairing of said street so ordered, and within ten days after the publication of such notice, the city council may procure the same to be done, by contract or otherwise, and charge and assess the expense thereof to the lots or parts of lots and parcels of land fronting upon such work, in the manner provided in and by the provisions of this act; and the same shall be levied and collected in the manner provided in this act. *Provided*, that no street shall be paved or repaved by order of the city council, unless the necessary sewers and their connections shall as required by the city council, be first laid and constructed in that portion of such street so to be paved or repaved. *Provided*, that if such city shall have heretofore constructed any sewer as provided in section 10 of this act, in any street or streets of said city which have been ordered to be paved, and shall also have constructed and connected therewith drains and sewer pipes from the main sewer to the curb lines, as provided in this section, then the cost of such sewer connections may be included

in and made a part of the assessment of the abutting property as provided in Section 10.

§ 28. REPEAL.] Chapter 150 of the session laws of 1893, chapter 168 of the session laws of 1895, chapter 128 of the session laws of 1899, and sections 1352 to 1373 both inclusive of the revised political code of the State of South Dakota of 1903, and all acts and parts of acts in conflict with this act are hereby repealed, except article XX. of chapter 37 of the session laws of 1890 and chapter 121 of the session laws of 1893, and sections 1341 and 1351 both inclusive of the revised political code of South Dakota of 1903.

§ 29. EMERGENCY.] Whereas no adequate provision of law exists for the construction of systems of sewerage, therefore an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved, March 12, 1903.

SOLDIERS HOME.

Repealed ch-157 Laws of 1905

CHAPTER 214.

(S. B. 137.)

PROVIDING FOR COMPENSATION OF COMMISSIONERS OF THE SOLDIERS' HOME

AN ACT entitled an act to provide for the compensation of the commissioners of the South Dakota soldiers' home.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. COMPENSATION OF COMMISSIONERS.] The Commissioners of the South Dakota Soldiers' Home shall receive as compensation for their services as such commissioners, the sum of three dollars per diem and their necessary travelling expenses for the time actually employed in attending meetings of the board as provided by law or for time actually employed in transaction of business wholly in the interest of said Soldiers' Home. Provided, said commissioners shall not receive compensation for more than fifty (50) days each in any one year.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists, therefore this act shall take effect from and after its passage and approval.

Approved March 5, 1903.

SOUTH DAKOTA STATE HORTICULTURAL SOCIETY.

CHAPTER 215.

(H. B. 254.)

PROVIDING FOR THE PUBLICATION OF THE REPORTS OF THE STATE HORTICULTURAL SOCIETY.

AN ACT establishing the department of horticulture, and providing for the publication of the reports of the state horticultural society.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. DEPARTMENT ESTABLISHED.] There is hereby established the Department of Horticulture of the State of South Dakota.

§ 2. DUTY OF DEPARTMENT.] It shall be the duty of the said department to collect, preserve, publish and disseminate information pertaining to Horticulture, and to promote tree planting, fruit growing and floriculture in the State of South Dakota by collecting and publishing the experiences of citizens having made a success of growing trees for either timber or shelter belt, or for fruit, and to perform such other duties as may be imposed upon it by the laws of this state.

§ 3. DUTIES VESTED IN SOUTH DAKOTA STATE HORTICULTURAL SOCIETY.] The administration of the duties of said department is hereby vested in and conferred upon the South Dakota State Horticultural Society which is duly organized and incorporated under the laws of this State, and on its officers and members and their qualified successors.

§ 4. MEMBERS.] Said Horticultural Society shall be composed of life annual, honorary, corresponding, auxiliary and ex-officio members.

Any society of South Dakota organized for the purpose of collecting information or preserving facts pertaining to horticulture may become an auxiliary member of this society and may be represented at the regular meetings of the society by one member; *provided* that such auxiliary society shall make an annual report of its work to this society to entitle it to such representation. Ex-officio members of the society are the constitutional officers of the State of South Dakota.

§ 5. MEMBERSHIP FEES.] The fees for membership shall be one dollar (\$1) for annual members and ten dollars (\$10) for life members. Any person may become a member of the society by the payment of the membership fee, or by election. Only life and annual members shall hold office, but the right to vote shall be extended to all members who attend the meetings of the society.

§ 6. MEETINGS OF.] The society shall meet annually on the third

Tuesday in January at such place as may be selected by the members, or by the executive committee, at any regular or special meeting of the society. And the officers of the society shall be elected for one year, and consist of a president, vice president, secretary, treasurer and librarian.

§ 7. DUTY OF OFFICERS.] It shall be the duty of the president to preside at all meetings of the society and of the executive committee and perform such other duties as are required of any executive officer. The vice-president shall perform the duties of the president in the absence or disability of the president. The secretary shall make and keep an accurate record of the proceedings of the society and perform such other duties as are incumbent upon a recording officer and as may be required by law. The secretary shall also make an annual report to the Governor, and to the members of this society, which shall give in detail the business transacted by the society during the past fiscal year, and contain in full all the papers and discussions of the members of the society at the regular annual meeting. The duties of the treasurer shall be to receive and disburse the funds of the society upon orders drawn upon him by the secretary, countersigned by the president and to keep an accurate account of the same. He shall also be required to give a good and sufficient bond for a faithful performance of his duties, which bond shall be approved by the Governor and the other members of the executive committee of this society. The librarian shall be the custodian of the books, papers and permanent records of this society. The president, secretary, treasurer and librarian shall constitute the executive board of this society.

§ 8. REPORTS TO BE PRINTED.] The governor annually shall cause to be printed and substantially bound in cloth, one thousand (1000) copies of the reports of this society in the same manner in which other reports of state officers and state institutions are printed and bound, and shall cause them to be distributed as follows:

One copy each to members of the legislature, the constitutional officers of the state, state institutions and public libraries, and the balance to be turned over to the secretary of the society to be distributed among the members of the society and for exchange with like societies in other states.

§ 9. COMPENSATION.] The compensation of the officers and employees of the society shall be fixed by the executive committee and shall be paid only out of the funds of the society, and the society is hereby prohibited from contracting any debts except such as can be paid out of its own treasury.

§ 10. REPEAL.] All acts and parts of acts conflicting with this act are hereby repealed.

NOTE BY THE SECRETARY OF STATE: The foregoing act having been presented to the governor of this state for his approval, and not having been returned by him to the house of the legislature in which it originated, or to the secretary of state, with his objections within the time prescribed by the constitution, has become a law without his approval.

O. C. BERG,
Secretary of State.

STATE BOARD OF AGRICULTURE.

CHAPTER 216.

(H. B. 152.)

Rep ch 72, 1906

RELATING TO THE STATE BOARD OF AGRICULTURE.

AN ACT to amend sections 158, 164 and 170 of the revised political code of 1903, relating to the State board of Agriculture.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 158 of the Revised Political, Code of 1903, be and the same is hereby amended to read as follows:

Section 158. AMENDMENT.] The State Board of Agriculture and Horticulture, Manufactories and Domestic Arts, consisting of five members, heretofore created, shall continue to be the Board of Agriculture, and upon the expiration of the terms of the members heretofore appointed, which expire on April 1st, 1903, the Governor shall appoint as their successors, two members of said board, whose terms shall expire on the second Tuesday in January 1905. The other three members of said Board, heretofore appointed, shall hold their offices until the second Tuesday in January, 1906, and hereafter, except as herein otherwise provided, upon the expiration of each member's term of office the Governor shall appoint his successor, who shall hold his office for the term of two years, beginning and ending on the second Tuesday in January unless sooner removed.

§ 2. That Section 164 of the Revised Political Code of 1903, be and the same is hereby amended to read as follows:

Section 164. MEETINGS OF BOARD—REPORT.] The board of Agriculture shall annually on the third Tuesday in October, hold a meeting of said Board, and thereafter make and deliver to the Governor, a full and complete report of all their acts and doings as required by law and no other annual report shall be made by said board, and said board shall annually, on the third Tuesday of January, hold a meeting thereof, at which time they shall elect a president, treasurer and secretary of said Board.

§ 3. That Section 170 of the Revised Political Code of 1903, be and the same is hereby amended to read as follows:

Section 170. COMPENSATION.] The members of the Board of Agriculture shall each receive three dollars per day for their services, and the actual expenses of each one of them while engaged in the duties of their office. *Provided*, That in no case shall the per diem and expenses of any member of such board exceed the sum of one hundred and fifty dollars in any one year which per diem and expenses shall be paid annually

on the first day of December, by the State Treasurer upon presentation of a proper warrant therefor, drawn by the State Auditor, upon itemized vouchers, duly verified by the oath of the members of said board, and which shall have endorsed thereon the approval of said Board.

§ 4. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 5. EMERGENCY.[Whereas, an emergency is hereby declared to exist this act shall go into effect and be in force from and after its passage and approval. •

Approved March 10, 1903.

STATE BOARD OF HEALTH.

CHAPTER 217.

(S. B. 200.)

RELATING TO THE STATE BOARD OF HEALTH.

AN ACT to amend sections 240 and 242 of the revised political code of South Dakota.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section No. 240 of the Revised Political Code of South Dakota be amended so as to read as follows:

Section 240. The State Board of Health shall annually at its first regular meeting elect a president, a vice president and a superintendent, who shall be ex officio secretary of the board.

§ 2. AMENDMENT.] That Section 242 be amended so as to read as follows:

Section 242. The State Board of Health shall meet at a place designated by the superintendent during the first week of May and November of each year, and such other times as said board shall deem necessary and shall have power as follows:

Powers and Duties—

1st. To make rules and regulations for the government of said board its officers and its meetings.

2nd. To make and enforce any and all needful rules and regulations for the prevention and cure, and to prevent the spread of any contagious infectious or malarial diseases among persons and domestic animals.

3rd. To establish quarantine and isolate any person affected with contagious or infectious disease

4th. To isolate, kill or remove any animals affected with contagious or infectious disease.

5th. To remove, or cause to be removed, any dead, decaying or putrid body, or any decayed, putrid or other substance that may endanger the health of persons or domestic animals.

6th. To condemn and cause to be destroyed any impure or diseased article of food that may be offered for sale.

7th. To superintend the several boards of health in cities, villages and towns, and the county board of health in the several counties.

8th. To empower and direct the superintendent of public health to do or cause to be done any or all of the things mentioned in subdivisions 3, 4, 5, 6 and 7 of this section.

§ 3. EMERGENCY.] It is hereby declared that an emergency exists and this act shall be in force from and after its passage and approval.

Approved March 6, 1903.

STATE FAIR.

CHAPTER 218.

(S. B. 61.)

LOCATING THE STATE FAIR.

AN ACT to locate the state fair permanently.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. LOCATION OF STATE FAIR.] Commencing with the year 1905 the state fair of the State of South Dakota shall be permanently located at the City of Huron in Beadle county, South Dakota.

§ 2. DUTIES AND POWERS OF BOARD.] The state board of agriculture is hereby empowered and it shall be their duty to take such steps as shall be necessary to carry this law into effect and to forthwith lease suitable grounds for the purpose of exhibiting the live stock together with the agricultural and horticultural products and mechanical arts, for a term not exceeding ten years.

Provided, the state shall not be at any expense for grounds in excess

of one hundred dollars per annum; and *provided further*, that said state board of agriculture shall require of the citizens of the City of Huron a guarantee that the premiums awarded by said board shall be paid in cash.

§ 3. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 11, 1903.

STATE FLOWER.

CHAPTER 219.

(S. B. 77.)

PROVIDING FOR A STATE FLORAL EMBLEM AND MOTTO.

AN ACT adopting a state floral emblem and a motto to accompany such emblem.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. STATE FLOWER ADOPTED.] That on and after the passage of this act the State Floral emblem of South Dakota shall be the Pasque Flower (*Anemone patens*) with the accompanying motto: "I Lead."

§ 2. TAKE EFFECT WHEN.] An emergency is hereby declared to exist and this act shall take effect and be in force on and after its passage and approval.

Approved March 5th, 1903.

STATE PROPERTY.

CHAPTER 220.

(H. B. 95.)

PROVIDING FOR MAKING INVENTORIES AND DISPOSING OF AND ACCOUNTING FOR CERTAIN PERSONAL PROPERTY BELONGING TO THE STATE.

AN ACT providing for making inventories and disposing of and accounting for personal property belonging to the state and used in and about the state institutions and providing a penalty for failure so to do.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. OFFICER MUST MAKE INVENTORY.] It shall be the duty of the officer in charge of each state institution of this state to make or cause to be made a full and complete itemized inventory of all the personal property belonging to the state and used in and about the institution of which he has charge, on or before the 30th day of June of each year, which inventory shall be entered in a book kept for that purpose, and which book shall be a permanent record and shall be kept at such institution.

§ 2. GOODS MUST BE ENTERED IN DETAIL.] whenever an article or bill of goods of any character is purchased or procured by the state for any of such institutions, it shall be the duty of the officer in charge of the institution for which such goods are procured, to immediately and before any of such goods are used, add them [in] detail, item by item to such inventory.

§ 3. INVENTORY DIVIDED INTO TWO CLASSES.] Such inventory shall be divided into two parts or classes. The first part shall contain the items of property which are more permanent in character, such as live stock, machinery, vehicles, tools, apparatus, furniture and the like, and the second part shall contain such items as are intended for consumption, such as clothing, fuel, provisions, farm products, medicines, chemicals and the like.

§ 4. NOTE OF GOODS DESTROYED MUST BE MADE.] Whenever any article of property so belonging to the state, whether of the first or second class, shall be lost or destroyed by fire or otherwise, a note giving the date and circumstances of such loss or destruction, shall immediately be entered in said inventory.

§ 5. CERTAIN GOODS TO BE SOLD.] Whenever any article of property in the first part or class of such inventory shall become unfit for use by reason of age, wear or tear or otherwise, and is beyond repair, it shall be the duty of the Board of Charities and Corrections, the board of regents or other board having under their control or supervision the institution hav-

ing such property, to inspect, condemn, appraise and have sold such property, to the highest bidder, at public auction sale, after due notice of the time and place of such sale is given in some newspaper published in the town or city at or nearest to which such institution is located, and a minute of such condemnation and sale of such items shall immediately be made in said inventory.

§ 6. ARTICLES USED OR EXPENDED—NOTE OF.] Whenever any article or any part of the property in the second part or class of such inventory shall be used, issued or expended, a note shall be immediately entered in such inventory showing the time and manner of such use, issue or expenditure.

§ 7. DUTY OF OFFICER.] The officer in charge of each state institution shall be responsible and shall account for every item of personal property belonging to the state and used in and about the institution of which he has charge.

§ 8. PENALTY.] Any officer who fails to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished accordingly.

Approved February 21, 1903.

STREET RAILWAYS.

CHAPTER 221.

(H. B. 164.)

Am 92, 1907

STREET AND ELECTRIC RAILWAYS.

AN ACT to amend subdivision 24 of section 1229 of the revised political code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That subdivision twenty-four (24) of section 1229 of the revised political code of 1903, be and the same is hereby amended so as to read as follows:

"24. To permit, regulate or prohibit the locating, constructing or laying a track of any horse or electric railroad in any street, alley or public place; but such permission shall not be for a longer time than twenty years."

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 4, 1903.

TELEGRAPH AND TELEPHONE MESSAGES.

CHAPTER 222.

(H. B. 62.)

PROVIDING PENALTIES FOR DIVULGING CONTENTS OF TELEGRAPH AND TELEPHONE MESSAGES.

AN ACT entitled an act to provide penalties for willfully divulging the contents of telegraph, telephone and other messages or communications.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. UNLAWFUL TO DIVULGE MESSAGE—PENALTY.] Any person connected with a telegraph, telephone or messenger company, incorporated or unincorporated, operating a line of telegraph or telephone or engaged in the business of receiving or delivering messages in this state, in any capacity who willfully divulges the contents or the nature of the contents of a private communication entrusted to him for transmission or delivery, or who willfully refuses or neglects to transmit or deliver the same, or who willfully forges the name of the intended receiver to any receipt for any such message or communication or article of value intrusted to him by said company, with a view to injure, deceive or defraud the sender or intended receiver thereof, or any such telegraph, telephone or messenger company or to benefit himself or any other person, shall be deemed guilty of a misdemeanor, and shall be imprisoned in the county jail not exceeding three months or fined not exceeding five hundred dollars, at the discretion of the court.

§ 2. No person divulging the contents of any message specified in the first section of this act upon order of a court of competent jurisdiction or of a judge thereof, shall be deemed guilty of a violation of the provisions of this act.

§ 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 14, 1903.

VACCINATION.

CHAPTER 223.

(H. B. 229.)

PUNISHING ABUSES RELATIVE TO VACCINATION.

AN ACT punishing abuses relative to vaccination

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. VACCINATION BY FORCE PROHIBITED.] It shall be unlawful for any board, physician or person to compel another by the use of physical force to submit to the operation of vaccination with small-pox or other virus.

§ 2. PARENT MUST NOT PREVENT CHILD FROM ATTENDING SCHOOL.] No person shall prevent a child of school age who furnishes a physician's certificate of successful vaccination with small-pox virus, within five years, from attending public school.

§ 3. VIOLATION—PUNISHMENT FOR.] Any person violating the provisions of this act shall be guilty of a misdemeanor and on conviction be punished by imprisonment of not more than thirty (30) days or by a fine of not more than one hundred dollars (\$100) or by both such fine and imprisonment.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 11, 1903.

VETERINARY SURGEON.

CHAPTER 224.

(H. B. 52.)

FIXING THE SALARY OF THE VETERINARY SURGEON.

AN ACT fixing the salary of the veterinary surgeon.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. That Section 2990, Article 15, of the Revised Political Code be amended so as to read as follows:

Article 15, section 2990. The veterinary surgeon shall receive for his services the sum of fifteen hundred dollars per annum, together with his necessary traveling expenses actually paid out when in performance of his duty. These payments shall be made from any funds in the state treasury not otherwise appropriated, upon itemized vouchers signed and sworn to by him and submitted to the State Auditor, who shall draw warrants upon the state treasurer for the amounts found correct, separate vouchers being made for salary and expenses. No person shall be competent under this article to receive the appointment of veterinary surgeon who is not at the date of his appointment a graduate in good standing of a recognized college of veterinary surgeons, and if [of] not less than five years actual experience. He shall hold his office for two years. He may be removed by the governor as now provided by law who shall also have power to fill the vacancy as hereinbefore provided. The appraisers herein provided for shall each receive three dollars per day or part of a day that they may be actually employed as such, which shall be paid from the State Treasury out of the Stock Indemnity fund herein provided, upon vouchers which bear the certificate of the Justice who summoned them.

The Justice of the Peace shall receive for his services the fees provided by law for similar services, to be paid out of the County general fund. The veterinaries, physicians or free holders called in consultation by the Veterinary Surgeon shall each receive three dollars for each day or part of a day they may be actually so employed and five cents per mile mileage for distance necessarily traveled, which sum shall be paid from the State Treasury out of the Stock Indemnity fund hereinafter provided for, upon vouchers certified to by the Veterinary Surgeon, and other incidental expenses connected with this work and made his duty by this article, such as causing animals to be slaughtered and their carcasses to be burned or buried, and disinfecting affected premises, shall be paid from the State Treasury out of the Stock Indemnity fund hereinafter provided for, upon

vouchers certified to him under oath. Before entering upon the discharge of his duties, he shall give a bond to the State of South Dakota, with good and sufficient surety, in the sum of ten thousand dollars, conditioned for the proper discharge of the same. No constructive mileage shall be paid under this section, nor shall the Veterinary Surgeon receive any mileage.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1903.

WASTE GATES.

CHAPTER 225.

(H. B. 271.)

RELATING TO THE CONSTRUCTION OF WASTE GATES.

AN ACT relating to the construction of waste gates.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. PERSONS OWNING MILL DAM NOT LIABLE WHEN.] Any person or persons, corporation or association owning or maintaining a mill dam across any stream of water in the State of South Dakota, shall not be subject to the provisions and liabilities prescribed in Chapter 208 of the Session Laws of 1901, providing that prior to the passage of said act such person, corporation or association has procured the consent to erect said dam from property owners for a distance of five miles above the dam owned and maintained by them.

§ 2. WASTE GATES NOT ALREADY CONSTRUCTED MAY BE CONSTRUCTED.] Every person, corporation or association that has not complied with the provisions of chapter 208 of the Session Laws of 1901, with reference to the construction of waste gates may do so before November first, 1903, by constructing a suitable waste gate not less than eight feet in length and so constructed that they may be readily raised or removed and allow the free passage of water through the dam and the bottom of the gate or gates shall not be more than three feet above the surface of the stream immediately below the dam at periods of low water, and in case there is no water in the channel at such periods, then the bottom of the gate or gates shall not be more than three feet above the level of the surface of the ground in the dry channel.

§ 3. WASTE GATES ALREADY CONSTRUCTED CANNOT BE CHANGED.] Nothing in this act shall be construed so as to permit any person, corporation or association that has heretofore constructed a water gate in compliance with Chapter 208 of the Session Laws of 1901, to reconstruct any such gate in any manner contrary to the provisions of said chapter 208.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 11, 1903.

WATERING PLACES.

CHAPTER 226.

(S. B. 176.)

RELATING TO WATERING PLACES.

AN ACT to amend section 2716 of the revised political code of 1903.

Be it Enacted by the Legislature of the State of South Dakota:

§ 1. AMENDMENT.] That Section 2716 of the revised political code of 1903 be and the same is hereby amended to read as follows:

Section 2716. The board of supervisors of any township in which any well or wells have been located pursuant to the provisions of this article, may at the expense of such township, conduct the water from each well, to a point on the public highway, nearest thereto, and provide for the reception of such water, a tank not less than ten feet in length, three feet in width, and two feet in depth, in which sufficient water shall be kept to supply the general public in said township, with water for the purpose of watering stock or for other domestic uses. And such board of supervisors may for the same purpose, establish other watering places in said township at such places as they may deem advisable, and provide such tanks at such places as they deem necessary, and conduct the water thereto from such wells, and may upon payment to such township of such compensation as shall be fixed by such board permit stock belonging to non-residents of said township, and not permanently kept within said township, or which shall be kept in connection with any farm or ranch outside of said township, to be watered at the watering places established by such board of supervisors, provided the same shall not materially diminish the supply of water necessary for the uses of the residents of such township. And any person who shall drive or cause to be driven into

such township any live stock or domestic animals not permanently kept in such township, and not belonging to any resident thereof, or which shall be kept in connection with any farm or ranch located outside of such township, for the purpose of watering the same at such well or at any of the watering places provided by the board of supervisors, or for the purpose of watering the same from the water flowing from said well, without the consent of the board of supervisors of such township, shall be guilty of a misdemeanor and shall be punished by a fine of not less than five dollars and not more than twenty-five dollars.

§ 2. EMERGENCY.] Whereas an emergency is hereby declared to exist, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

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